Each regulatory agency of California government hears from those trades or industries it respectively affects. Usually organized through various trade associations, professional lobbyists regularly formulate positions, draft legislation and proposed rules, and provide information as part of an ongoing agency relationship. These groups usually focus on the particular agency overseeing a major aspect of their business. The current activities of these groups are reviewed as a part of the summary discussion of each agency, *infra*.

There are, in addition, a number of organizations which do not represent a profit-stake interest in regulatory policies. These organizations advocate more diffuse interests—the taxpayer, small business owner, consumer, environment, future. The growth of regulatory government has led some of these latter groups to become advocates before the regulatory agencies of California, often before more than one agency and usually on a sporadic basis.

Public interest organizations vary in ideology from the Pacific Legal Foundation to Campaign California. What follows are brief descriptions of the current projects of these separate and diverse groups. The staff of the Center for Public Interest Law has surveyed approximately 200 such groups in California, directly contacting most of them. The following brief descriptions are only intended to summarize their activities and plans with respect to the various regulatory agencies in California.

ACCESS TO JUSTICE FOUNDATION

3325 Wilshire Blvd., Suite 550
Los Angeles, CA 90010
(213) 383-9618

Access to Justice Foundation (AJF) is a nonprofit, nonpartisan citizen advocacy organization established to inform the public about the operation of the legal system; provide independent, objective research on the protection accorded citizens by laws; and guarantee citizens of California access to a fair and efficient system of justice.

In 1988, AJF and its campaign committee—the Voter Revolt to Cut Insurance Rates—sponsored and qualified Proposition 103, the only one of four competing insurance reform initiatives approved by the electorate in the November 1988 election.

AJF publishes a bimonthly report, *Citizens Alliance*, on citizens' rights issues and actions at the local, state, and federal levels. Legislative, judicial, and administrative activities which impact on the public justice system and the exercise of citizens' rights are a major focus of the organization's research and educational activities. AJF is funded by grants and individual memberships.

MAJOR PROJECTS:

Once again, the debate over automobile insurance in California has polarized the state's public interest community and paralyzed the legislature. In mid-May, Voter Revolt was joined by the Southern Christian Leadership Conference, the Chicano Correctional Workers Association, and other groups in opposing SB 941 (Johnston), the proposed no-fault insurance legislation supported by Governor Wilson, the insurance industry, Consumers Union, Public Advocates, and other consumer and ethnic organizations. (*See infra* reports on CONSUMERS UNION and PUBLIC ADVOCATES for related discussion.) Voter Revolt warned Californians not to be misled by the insurance industry's multimillion dollar advertising campaign to muster support for SB 941. Voter Revolt said the ad campaign's slick mailers and newspaper ads do not identify the insurance industry as the source and sponsor.

Voter Revolt and the anti-no-fault coalition argue that SB 941 is an attempt to evade implementation of Proposition 103. It released a 15-page analysis of the legislation, which concluded that:

-SB 941 would lead to immediate increases in insurance premiums for most Californians, and provides no long-term price protection to low- and moderate-income policyholders;

-the bill permits insurers to shift the costs of auto accident claims to taxpayer-supported programs and to health insurance premiums paid by consumers and businesses;

-it undermines Proposition 103 by limiting the regulatory authority and accountability of the Insurance Commissioner;

-low-income people would be forced to accept permanently inferior coverage—including diminished medical benefits—in exchange for trading away their present legal rights;

-SB 941 would deprive accident victims of their current right to full civil redress and a jury trial, and require victims to subsidize those who caused their injuries; and

-an intrusive, time-consuming, and bureaucratic claims procedure would encourage abuse by insurers, particularly for those consumers who lack the means or ability to navigate and negotiate its intricate procedures.

Voter Revolt Chair Harvey Rosenfield said the insurance industry is "up to its old tricks—albeit with clever new packaging designed to entrance consumers burdened by high insurance rates. It is trying to enrich itself and deny consumers the reforms of Proposition 103...." He emphasized that voters rejected no-fault insurance when they approved Proposition 103 in November 1988.

At a Voter Revolt headquarters news conference on May 20, renowned consumer advocate Ralph Nader denounced no-fault insurance legislation as "a cruel, anti-consumer power play by insurance companies...." He said the plan includes fewer benefits than the no-fault insurance systems in Michigan and New York. Nader urged Californians to contact their legislators and insist that they vote against SB 941, and unite behind full implementation of Proposition 103. He warned the public that "if the insurance industry succeeds in shifting attention from Proposition 103 to no-fault, Californians will never see 103's rollback and other reforms." He noted that SB 941's $220-per-year price tag is deceptive because drivers would need additional coverage to protect against lawsuits allowed by SB 941 in cases of serious or permanent injuries. Further, he asserted, SB 941 is not indexed for inflation; thus, benefits would decline each year. At the news conference, Nader released a letter he had sent to Senate Judiciary Committee Chair Bill Lockyer in response to a request for Nader's stand on no-fault. In the letter, Nader called for full implementation of Proposition 103 and additional insurance reforms:

-a low-cost, lifeline auto insurance policy available to all who need it—with full tort-law protections, eliminating the uninsured motorist problem;

-establishment of a permanent consumer advocacy group to represent policyholders' interests (*see supra* FEATURE ARTICLE for extensive background information on this issue);

-better highway and auto safety laws to reduce accidents and property damage;

-a law reinstating insurance companies' liability to third parties for failure to pay claims promptly;

-anti-fraud provisions which penalize totally frivolous lawsuits or legal defenses or unnecessary medical charges; and

-court congestion reform, to expand access to the courts and speed resolution of civil and criminal cases.

On May 28, SB 941 was defeated 5-4 in the Senate Judiciary Committee; at this writing, it does not appear that Senator Johnston will seek reconsideration for the bill this year. Attention is now focused on AB 1375 (Brown), the Assembly Speaker's competing bill which would establish a low-cost policy for qualifying, low-income, good drivers, while leaving the existing fault-based tort system largely intact. Should AB 1375 pass the legislature, Governor Wilson has vowed to veto it. (*See infra* agency report on DEPARTMENT OF INSURANCE for related information on these bills.)

In March 12 letters to Insurance Commissioner John Garamendi and Attorney General Dan Lungren, Voter Revolt accused the insurance industry of punishing agents who discount insurance premiums, which is permitted under Proposition 103. Voter Revolt called for an industry-wide investigation of complaints that insurers are terminating agents who cut their own commissions in order to sell policies to consumers at a lower price. Under Proposition 103, anticompetitive terminations violate California's antitrust and consumer protection laws. One complaint from an insurance agency in southern California said it had been terminated by several insurance companies for rebating commissions. Voter Revolt presented as evidence a letter to the agency from an insurance company admitting termination because of rebating. The complaint claims that other agents are urging insurers to terminate those who insist on discounting policies. Some insurance agent lobbying organizations have tried to discourage rebating by suggesting new laws to prohibit it, according to Voter Revolt.

On March 19, Harvey Rosenfield blasted over 100 insurance companies which filed suit in Los Angeles County Superior Court in an attempt to prevent Insurance Commissioner John Garamendi from scrapping former Commissioner Roxani Gillespie's Proposition 103 rollback regulations and adopting his own more stringent regulations. (*See infra* agency report on DEPARTMENT OF INSURANCE; *see also* CRLR Vol. 11, No. 2 (Spring 1991) pp. 121-22 for background information.) "Twenty-seven months after Proposition 103 passed, the national insurance industry, led by State Farm and Farmers, is again asking the courts to thwart the will of the people," said Rosenfield. "Ironically, the same insurance companies which last year tried to block former Commissioner Gillespie's regulations—which would have given almost no rollbacks—are now telling the court Gillespie's regulations are valid and must be applied, rather than Garamendi's far tougher regulations," he added. Rosenfield called the insurance industry disrespectful of California voters, consumers, and the rule of law, and said it is an "arrogant, outlaw industry."

However, on April 9, Judge Dzintra Janavs threw out the insurers' lawsuit, paving the way for Garamendi to hold hearings on the proposed regulatory changes in May and June. Rosenfield interpreted the court's ruling to mean that "Proposition 103 is inevitably, irrevocably, unquestionably, and unavoidably going to go into effect."

AMERICAN LUNG ASSOCIATION OF CALIFORNIA

5858 Wilshire Blvd., Suite 300
Los Angeles, CA 90036-0926
(213) 935-5864

The American Lung Association of California (ALAC) emphasizes the prevention and control of lung disease and the associated effects of air pollution. Any respiratory care legislative bill is of major concern. Similarly, the Association is concerned with the actions of the Air Resources Board and therefore monitors and testifies before that Board. The Association has extended the scope of its concerns to encompass a wider range of issues pertaining to public health and environmental toxics generally.

MAJOR PROJECTS:

On May 10 in Los Angeles, ALAC presented the eighth annual *Lungs and the Environment Conference*, focusing on "The Future of Clean Air in Los Angeles County: Costs, Benefits, and Opportunities." The conference was cosponsored by the Southern California Gas Company, and endorsed by the South Coast Air Quality Management District (SCAQMD) and the U.S. Environmental Protection Agency (EPA), Region 9. The conference was offered to expand the knowledge of physicians, nurses, environmental professionals, educators, and business/government personnel about controlling air pollution in Los Angeles County.

Conference panel discussions included the current status of clean air regulation, critical issues related to health and environmental benefits and socioeconomic costs, and strategies and data needs for minimizing costs and maximizing benefits. Speakers addressed the following topics: the health effects of air pollution; costs and strategies for achieving clean air; estimating costs and benefits; and clean air legislation. Workshops covered future directions for air pollution control professionals; alternative strategies for cleaning the air; and health effects research.

ALAC and four environmental groups called an April 30 news conference to criticize SCAQMD's latest regional air quality plan—the same day the agency began three days of public hearings on the revised document. The groups called the latest provisions of the plan too weak to be legal, and said that the changes are "a giant step backward" compared to SCAQMD's 1989 plan, which was rejected by the EPA (see CRLR Vol. 10, No. 4 (Fall 1990) p. 17 for background information). Joining ALAC at the news conference were representatives of the Coalition for Clean Air, Sierra Club Legal Defense Fund, Natural Resources Defense Council, and Citizens for a Better Environment.

The environmentalists said SCAQMD should not allow local governments to make decisions on controversial measures such as eliminating free parking or linking new housing developments to bus lines. They insisted that SCAQMD must assure that mass transit is available as an alternative to driving. The activists said the plan is seriously flawed because it states that new freeway construction eases congestion and reduces air pollution. SCAQMD was also taken to task for rolling back deadlines for compliance with clean air standards by three years—to 2010. One of the environmental representatives predicted the District would face legal action, and said the new plan consists of "beatific pronouncements unaccompanied by any tangible activity."

On April 23 and 30, the heavy lobbying of the tobacco industry twice defeated a bill in the Senate Governmental Organization Committee that would expand restrictions on the purchase of tobacco products by children. SB 1099 (Petris) was backed by several health groups; it would have required state licensure of stores which sell tobacco products (similar to the licensing of establishments which sell alcoholic beverages). Stores selling these products to minors could lose their licenses or face other penalties. SB 1099 may be

reconsidered at a later date. Companion legislation in the Assembly, AB 1667 (Bronzan), is pending in the Assembly Government Organization Committee at this writing.

On April 21, the *San Diego Union* reported that the tobacco industry has given $1.3 million in California elections over the past three years, and now ranks among the top five campaign contributors in the state. Tobacco company lobbying and campaign expenditures in the state have increased 800% since 1985. Assembly Speaker Willie Brown, Jr., is the largest recipient of tobacco funds, with $154,750 contributed over the past six years to his personal campaign committees and to ballot measure committees he controls. According to the *Union*, tobacco lobbyists rarely lose a battle over legislation in the state Capitol. In addition to the defeat of the bill described above, tobacco company lobbyists have convinced legislators to kill bills that would ban cigarette sales from vending machines and eliminate the tax deduction for tobacco advertising expenses. In the *Union* article, former ALAC lobbyist Mary Adams stated that even though Speaker Brown is a nonsmoker, he has worked behind the scenes to refer anti-smoking bills to the Assembly Governmental Organization Committee, which has a reputation for killing such legislation.

An April 30 *Los Angeles Times* article described ALAC director of environmental health Gladys Meade as one of the eight most influential individuals in shaping southern California policy on air pollution. Meade has been a veteran smog fighter since 1974. "Meade is the only individual from a nonprofit advocacy group who has made clean air a long-term and continuing cause—surpassing the efforts of environmentalists," the article noted. Meade, a member of the state Air Resources Board during 1972-73, was involved in the negotiations that led to the creation of SCAQMD in 1974. She also worked on the legislation which created the California Smog Check vehicle inspection and maintenance program, and pushed for passage of the 1988 California Clean Air Act. She has gained respect from leaders in government and industry for her grasp of the issues.

NATIONAL AUDUBON SOCIETY

555 Audubon Place
Sacramento, CA 95825
(916) 481-5332

The National Audubon Society (NAS) has two priorities: the conservation of wildlife, including endangered species, and the conservation and wise use of water. The society works to establish and protect wildlife refuges, wilderness areas, and wild and scenic rivers. To achieve these goals, the society supports measures for the abatement and prevention of all forms of environmental pollution.

MAJOR PROJECTS:

Shortly before Earth Day (April 21), NAS mailed a special "action alert" calling for member support of Senator Tim Wirth's (D-Colorado) energy legislation, S. 741, which rejects exploitation of the Arctic National Wildlife Refuge (ANWR) for oil development. The bill incorporates strong automobile fuel efficiency standards that would save many times the amount of oil that could be drilled from the Refuge. The action alert also urges supporters to lobby against S. 341 by Senator Bennett Johnston (D-Louisiana) and Senator Malcolm Wallop (R-Wyoming), which places overwhelming emphasis on oil exploitation and energy development. S. 341 bases the energy future of the United States on continuing high rates of oil production and consumption, and on the revival of the nuclear power industry. It would open the ANWR to oil and gas development, and promote further development of coal technology. According to the action alert, S. 341 would save less than 0.1% of the cumulative energy consumption of the United States between now and 2000. Senator Wirth's S. 741, on the other hand, provides for the development of wind, solar, and alternative fuels technologies, and its energy efficiency and conservation provisions are estimated to save twenty times as much as the provisions in the Johnston-Wallop bill.

The April edition of *Audubon Activist* was a special issue devoted to preventing oil and gas development in the fragile and pristine ANWR, which was created by the 1980 Alaska Lands Act. The newsletter called the 19-million-acre ANWR the "crown jewel" of America's wild lands; along with Canada's Yukon National Park, it forms the single most important haven for arctic life in the world. The ANWR is home to a herd of 180,000 Porcupine caribou, which migrates hundreds of miles for spring calving in the Refuge. Up to 135 bird species occur in the coastal plain, and visitors are likely to see rare musk oxen, grizzly bears, wolves, foxes, moose, eagles, tundra swans, and peregrine falcons.

The Bush administration's energy plan centers on drilling in the Refuge and increasing oil production. Oil companies are invoking "national security" as a major justification for opening the Refuge. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 34 for background information.) Oil development interests are focusing on the coastal plain—a 1.5-million-acre strip of tundra wetlands on the northern edge of the ANWR. Several competing bills have been introduced in Congress—some would open the coastal plain for exploitation; others would designate the area as wilderness, thus providing protection from development.

Before he retired in April, Arizona Representative Morris Udall introduced H.R. 39, which would designate the coastal plain of ANWR as wilderness. The bill has 59 cosponsors at this writing. Senator William Roth (R-Delaware) introduced a companion bill in the Senate, S. 39, with 20 cosponsors. Audubon supports another bill, S. 279 by Senator Richard Bryan (D-Nevada), which would raise the corporate average fuel economy standards of cars 20% by 1996 and 40% by 2001. In addition to S. 341, opposing bills which must be defeated are H.R. 759 by Representative Don Young (R-Alaska), and S. 109 by Senator Ted Stevens (R-Alaska), which call for opening the ANWR to development.

Audubon has initiated its largest grassroots campaign ever, involving every facet of the organization to save ANWR. According to *Audubon Activist*, letters and phone calls to Congress from citizens opposing arctic oil development are vitally important. Brooks Yeager, NAS Vice-President for Government Relations, said, "Drilling in the coastal plain will do only one thing with certainty—destroy an irreplaceable arctic ecosystem. It will not get us off our dependence on oil....If we get that pool of oil, we'll 'be all right' for what, ninety days? Two hundred days? It's a minuscule drop in the bucket compared to where we really need to go. Anyone who buys an energy strategy of which the cornerstone is drilling one last remote oilfield is buying a policy designed to keep us with an economy that's polluting, wasteful, largely imported, and unsafe."

Although drilling proponents assert that only 12,000 acres would be affected and would not be adversely impacted by the oil development, Audubon policy analyst Dorene Bolze refutes this claim: "The effects of development would go way beyond a mere 'footprint.' Drilling wastes and other toxins at the arctic Prudhoe Bay have contaminated tundra for miles around—not to mention the damage from drilling pads, roads, air pollution, and noise."

Environmentalists note that the fate of the Refuge is not the only thing at stake—the other is the course of the nation's energy policy. They say oil will only become increasingly expensive and scarce no matter how many wells are drilled. Activists insist that America kick the oil habit and focus on increasing vehicle fuel efficiency standards, improving energy efficiency, and developing renewable energy technologies. An increase of only two miles per gallon in fuel efficiency would save more than three billion barrels of oil by 2020—the amount estimated in the ANWR coastal plain.

Senator Bill Bradley (D-New Jersey) has reintroduced legislation supported by NAS to provide desperately needed water to the fourteen federal and state wildlife refuges in California's San Joaquin Valley. The Central Valley Improvement Act, S. 484, would provide equitable treatment for fish and wildlife with other project purposes. Diversion of Central Valley water for agriculture and urban areas has devastated wetlands. In the House, Representative George Miller introduced his companion bill—the California Fish and Wildlife Protection Act.

The Ancient Forest Protection Act of 1991 (H.R. 842) was recently reintroduced by Representative Jim Jontz (D-Indiana). (See CRLR Vol. 11, No. 1 (Winter 1991) pp. 20-21 for background information.) This measure is a top priority for NAS and other environmental groups. The Jontz bill would establish a system of ancient forest reserves in the national forests of the Pacific Northwest and protect corridors connecting the unique ecosystems. Audubon is urging members to ask their congressional representatives to cosponsor H.R. 842.

On May 31, seven chapters of the Audubon Society joined with the Sierra Club Legal Defense Fund, the Natural Resources Defense Council, and the Environmental Defense Fund in a lawsuit filed in Sacramento County Superior Court against the Water Resources Control Board (WRCB) for its alleged failure to protect water quality in the Sacramento-San Joaquin River Delta, which flows into and helps flush and clean San Francisco Bay. The suit seeks to overturn WRCB's May 1 adoption of a Water Quality Control Plan which establishes new salinity standards to protect municipal, industrial, agricultural and environmental uses of the Delta. The environmental groups assert that WRCB's Plan, which is the latest step in the Board's four-year-old proceeding to establish new standards to protect the waters of the Bay/Delta, fails to adequately protect declining and endangered species, including the chinook salmon, striped bass, and Delta smelt. The groups claim that the new standards violate laws enacted to protect the Delta estuary's fish and plant life, including the California Endangered Species Act, the federal Clean Water Act, the California Porter-Cologne Water Quality Control Act, the California Environmental Quality Act, and state and federal anti-degradation laws. (*See infra* agency report on WRCB for related discussion.)

The conservationists seek to require WRCB to allow more fresh water to flow through the Delta. They assert the additional flow of water is necessary to restore the ecosystem of the estuary, which is dependent on the mixing of fresh and salt water.

CALIFORNIA PUBLIC INTEREST RESEARCH GROUP

1147 S. Robertson Blvd., Suite 203
Los Angeles, CA 90035
(213) 278-9244

CalPIRG is a nonprofit statewide organization founded by students from several California universities. It is the largest student-funded organization of its kind in the state. There are CalPIRG chapters on four campuses of the University of California. CalPIRG now has approximately 120,000 members statewide, including thousands of citizens members.

MAJOR PROJECTS:

On April 18, CalPIRG released a report on the production and use of toxic chemicals by the National Environmental Law Center (NELC). The report, entitled *Toxics Truth or Consequences*, documents the need for better data on industry use of toxics. At news conferences in several cities in the state, CalPIRG representatives said the report bolsters the need for passage of AB 1519 (Lee), the Toxics Truth Act. This bill is a reintroduction of AB 1728 (Katz), the Toxics Reporting and Use Reduction Act, which was vetoed by former Governor Deukmejian in September 1990. (See CRLR Vol. 10, No. 4 (Fall 1990) pp. 20-21 and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 28 for background information.)

According to the report, California chemical companies produced or used three billion pounds of toxic substances in 1988—fifteen times more than the amount required to be reported as toxic waste. The NELC study identified the toxic chemicals ammonia, benzene, propylene oxide, styrene, and sulfuric acid as among the chemicals produced or used in California in the largest amounts. Effects associated with one or more of these chemicals include cancer, chronic hazards, reproductive hazards, and environmental toxicity. Assemblymember Lee's AB 1519 would require companies to report the production and use of chemicals, not simply the amount of toxic waste they generate. The legislation would also pressure companies to replace the use of millions of pounds of dangerous chemicals with nontoxic substances. At an Oakland news conference, CalPIRG Executive Director Deborah Bruns said, "Throughout California, more than 12,000 citizens have already signed postcards to legislators urging them to support pollution prevention measures. Only with passage of AB 1519 can we begin to protect Californians from increased exposure to toxics in our homes, our workplaces, and our environment."

CalPIRG is monitoring two other toxics pollution prevention bills. SB 251 (Roberti), the Pollution Prevention Act of 1991, would establish the Office of Pollution Prevention in the Environmental Affairs Agency, and charge it with various duties relating to reduction of the use of hazardous materials and prevention of the generation of pollution. SB 46 (Torres), the Air Toxics Pollution Prevention and Reduction Act, would revise the definition of toxic air contaminant (TAC) to delete an exclusion for pesticides, and redefine the threshold level of TAC emissions below which no health effects are anticipated. At this writing, both bills are stalled in the Senate Appropriations Committee. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 26 for background information on CalPIRG's "Pollution Prevention Platform.")

On April 4, CalPIRG released a survey on tanning salons, entitled *Indecent Exposure*, which found that about one-half of tanning salons surveyed are missing mandated warning labels, despite federal and state laws designed to warn consumers about significant health risks associated with tanning machines. Health risks created by excess exposure to ultraviolet radiation at tanning salons include sunburn, skin cancers, retinal damage, cataract formation, and premature aging and wrinkling of skin. Another concern is possible suppression of the immune system. Exposure from tanning machines can also be an immediate life threat for people who use light-sensitive medications, such as tetracycline and some birth control pills.

The tanning salon report was based on an investigation of 100 businesses in eight states and the District of Columbia. Nearly one-half of the 183 machines

examined did not have the mandated U.S. Food and Drug Administration (FDA) warning label. Half of the salons surveyed had at least one improperly labeled tanning device. In California, 64% of the salons did not comply with state law that imposes stricter standards than federal law. CalPIRG visited 22 salons in California and viewed 37 tanning machines: 24% of the devices lacked the FDA warning label, and 31% of the salons had at least one improperly labeled machine. The survey disclosed that several salon operators claimed the tanning equipment offers health benefits or is safer than the sun.

CalPIRG's report made a number of recommendations to protect consumers, including laws to limit children under 18 years from using tanning devices; a requirement that salon operators notify patrons of adverse health effects through warning notices and pamphlets; required registration and inspection of tanning salons; increased enforcement and educational efforts by state and federal agencies; and a Federal Trade Commission investigation into advertising claims and practices of tanning salons. CalPIRG supports passage of AB 1555 (Filante), which would establish enforcement of current state law in California.

At April 21 Earth Day events around the state, CalPIRG members were busy collecting signatures on an energy petition in support of a national sustainable energy policy that emphasizes energy efficiency, supports renewable energy technologies, and eliminates drilling for oil in environmentally sensitive areas. More than 7,000 signatures were collected by CalPIRG activists. The petitions will be used in national lobbying efforts as debate continues on the national energy policy issue. (*See supra* report on NATIONAL AUDUBON SOCIETY for related discussion.)

On April 22, over 40 student supporters of CalPIRG traveled to Sacramento for legislative hearings on reinstating the "negative check-off" fee collection system used at four University of California campuses to fund CalPIRG chapters. A September 1990 decision by the UC Board of Regents to scrap the system has become one of the most controversial budget issues for the UC this year. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 21 for background information.) Several legislators are upset with the UC administration for eliminating CalPIRG. Nine students testified before a sympathetic Senator Nicholas Petris, chair of the Education Subcommittee of the Senate Budget and Fiscal Review Committee. The next day, six students testified before an Assembly budget subcommittee, where four subcommittee members spoke in favor of student rights. CalPIRG spokespersons credited the favorable reception by legislators to strong student involvement and letter-writing.

CALIFORNIANS AGAINST WASTE

909 12th St., Suite 201
Sacramento, CA 95814
(916) 443-5422

In 1977, Californians Against Waste (CAW) was formed to advocate for a recycling bill in the legislature which would require a minimum refundable deposit of five cents on beer and soft drink containers. After being repeatedly thwarted legislatively by well-financed industry opponents, CAW sponsored and organized a coalition for a statewide citizen initiative which appeared on the ballot in 1982 as Proposition 11. That measure failed after can and bottle manufacturers and their allies raised and spent $6 million to defeat it. CAW then worked for the 1986 passage of the "bottle bill" (AB 2020-Margolin), which for the first time established redemption values for glass, aluminum, and two-liter plastic beverage containers. As of January 1, 1990, under SB 1221 (Hart), redemption values increased from one cent per glass or aluminum container to five cents for every two containers returned. Two-liter plastic beverage containers are now worth five cents each. Under SB 1221, redemption values for aluminum, glass, and plastic beverage containers will increase if a recycling goal of 65% is not reached by 1993.

MAJOR PROJECTS:

CAW's legislative agenda is full this year; the following is a status update on some of the bills CAW is sponsoring or supporting during 1991 (see CRLR Vol. 11, No. 2 (Spring 1991) p. 27 for background information):

-AB 2213 (Sher) is CAW's top priority this year. The bill would impose an "advance disposal fee" or "recycling incentive fee" at point of first sale in California on specified products and materials, payable to the California Integrated Waste Management and Recycling Board. The funds would be used to create a billion-dollar recycling fund every year, and bring curbside recycling to the doorsteps of millions of Californians. This bill is pending in the Assembly Ways and Means Committee.

-AB 750 (Margolin), which would expand the bottle bill by establishing a refund value for wine, fortified wine, distilled spirits, and noncarbonated water containers by March 1, 1991, was rejected by the Assembly Ways and Means Committee on May 30; however, reconsideration has been granted.

-AB 861 (Friedman), which would ban excessive audiocassette and compact disc packaging by January 1, 1993, is also pending in the Assembly Ways and Means Committee.

-AB 1423 (Gotch), as amended May 30, would require recycled material to be incorporated into the production of all glass containers and all aluminum, steel, and bi-metal cans. This bill is pending in the Assembly Ways and Means Committee.

-AB 1556 (Margolin), which would require the Department of Conservation to conduct regular, unannounced inspections of beverage container dealers in areas in which there is no certified recycling location for purposes of determining that the requirements of the bottle bill are satisfied, passed the Assembly on May 30 and is pending in the Senate Committee on Natural Resources and Wildlife.

-AB 2212 (Sher), which would repeal provisions of the bottle bill concerning nonprofit drop-off recycling programs and permit the Department of Conservation to calculate a processing fee for beverage containers other than those currently covered by the bottle bill, is pending in the Assembly Ways and Means Committee.

-AB 2076 (Sher), the California Oil Recycling Enhancement Act, passed the Assembly on May 30 and is pending in the Senate Governmental Organization Committee.

CAW Foundation Director Susan Kinsella's "Buy Recycled" campaign has produced several informative recycling pamphlets and brochures, culminating with a consumer paper guide and consumer products guide, both of which contain extensive lists of manufacturers and distributors of recycled goods. The two-year Buy Recycled campaign promotes environmentally-friendly products and packaging, and aims to create and maintain consumer demand for recycled materials. The project is designed to provide consumers, businesses, and government agencies with practical information about recycled products and where to buy them. As recycling programs grow, there is an increasing supply of recycled or secondary materials. A corresponding demand must exist for those materials or markets will be flooded and scrap values will decline. As a result, recyclers will have no incentive to continue collection,

and these materials may end up in a landfill.

To stimulate demand for recycled products, the CAW Foundation has produced a *Guide to Recycled Printing and Writing Paper*. This publication provides information about recycled paper products and where they are available. It identifies and promotes paper companies that sell recycled paper made with post-consumer material collected from home and office recycling programs. Consumers should purchase products which have post-consumer content to be assured some or all the material is truly recycled. Contact the CAW Foundation at the above address to obtain a copy of the guide.

CAMPAIGN CALIFORNIA

926 J Street, Suite 1400
Sacramento, CA 95814
(916) 447-8950

In July 1986, the Campaign for Economic Democracy (founded in 1977) became Campaign California. The 100,000-member/contributor organization, with offices in Sacramento, San Jose, and Santa Monica, continues as the largest progressive citizens action group in the state. Each office of the organization operates a door-to-door and telephone canvass, providing direct contact with voters regarding issues; facilitating fundraising and signature collection drives; and resulting in registration of new voters.

Campaign California supports efforts to frame workable, progressive solutions to problems in the areas of child care, education, environment, transportation, personal safety, insurance, and health care. It targets the private entrepreneur as a source of economic growth, jobs, and innovation.

MAJOR PROJECTS:

In its Spring 1991 newsletter, Campaign California reported on the status of its "Big Green Project," which seeks to implement, on a point-by-point basis, the objectives of the failed 1990 "Big Green" (Proposition 128) citizens' initiative. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 27-28 for background information.) The publication cited a consumer poll indicating that 77% of those surveyed believe that pesticide residues in food constitute a "serious hazard." Campaign California claims that less than .1% of the 375,000 tons of pesticides sprayed nationally on farmland each year actually reaches a harmful pest; the other 99.9% simply contaminates food, air, and water. Campaign California contends that federal testing detects only about one-half of the pesticides that may contaminate fruits, vegetables, and other foods; and that California routinely tests only 34% of the farm chemicals used on foods. According to the report, up to 30% of all pesticides used are for cosmetic purposes to reduce blemishes or scarring on foods. Campaign California faults the U.S. Environmental Protection Agency for using "supposedly safe pesticide residue levels" which were established twenty years ago for only 66 chemicals, and which are based on exposure to adults, not children.

Campaign California reports that public education will be the cornerstone of the Big Green Project, including publication of legislators' voting records on environmental bills; research and analysis of key environmental issues; preparation and circulation of information to the media and the public on the key issues; compilation of questionnaires for candidates for elected office and publication of a voter's guide; coordination and information sharing through a network of state environmental leaders and organizations, along with meetings on key issues; public surveys and polls on Californians' attitudes and opinions about environmental issues; electoral training, including workshops to assist environmentalists in understanding and participating in the electoral process; and issue briefings with opinion leaders from industry, media, trade associations, and other fields, to share information and provide opportunities for conflict resolution. Campaign California expects to continue to build its membership base by utilizing door-to-door canvassers and telemarketing to disseminate information and raise funds.

On the legislative front, the following is a status update on some of the bills which are part of the Big Green Project:

-AB 854 (Lempert), as amended May 24, would create the California Coastal Sanctuary and prohibit state agencies from allowing oil drilling in state waters except under limited, specified circumstances. This bill is pending in the Assembly Ways and Means Committee.

-AB 1420 (Lempert), which would double the amount of funding available to the State Lands Commission for purposes of implementing oil spill prevention and response programs, is pending in the Assembly Natural Resources Committee.

-AB 614 (Hayden), which would require the Water Resources Control Board to set new limits on discharges into bays, estuaries, and coastal waters, is pending on the Assembly floor.

-AB 920 (Hayden), which would require the California Energy Commission to adopt a plan to reduce annual emissions of carbon dioxide, is pending in the Assembly Ways and Means Committee.

-SB 431 (Hart), which would provide tax incentives to purchase energy-efficient autos, is pending in the Senate Transportation Committee.

-AB 2198 (Sher), which would state the legislature's intent that renewable resources provide most new power generated in the state, is pending on the Assembly floor.

-AB 1854 (Connelly), which would require the Department of Food and Agriculture to adopt and enforce pesticide tolerances developed by the Department of Health Services, is pending in the Assembly Environmental Safety Committee.

-AB 2038 (Connelly), which would mandate lead testing for children eligible for community child health and disability prevention programs, is pending in the Assembly Ways and Means Committee.

-AB 1742 (Hayden), which would require that certain pesticides be phased out unless health studies are completed as required by law, is pending in the Assembly Ways and Means Committee.

CENTER FOR LAW IN THE PUBLIC INTEREST

11835 W. Olympic Blvd., Suite 1155
Los Angeles, CA 90064
(213) 470-3000

The Center for Law in the Public Interest (CLIPI), founded in 1971, provides public interest law services. Due to economic considerations, in 1988 CLIPI began using outside counsel rather than employ a full-time legal staff. Some legal services for the Center are provided by the law firm of Hall & Phillips, while a number of legal cases are handled on a contract basis by outside attorneys. CLIPI's major focus is litigation in the areas of environmental protection, civil rights and liberties, corporate reform, arms control, communications, and land use planning. CLIPI sponsors law student extern and fellowship programs, and periodically publishes a newsletter called *Public Interest Briefs*.

MAJOR PROJECTS:

On June 3 in *R.H. Macy & Co. v. Contra Costa County*, No. 90-1603, the U.S. Supreme Court agreed to determine whether California's Proposition 13

property tax limit approved by voters in 1978 is unconstitutional. At issue in this case is whether new owners of commercial property may be taxed at a higher rate than long-term owners. Macy's did not ask that Proposition 13 be wholly invalidated, only that companies like Macy's be taxed the same as competitors. The department store chain claimed that Proposition 13's differential method of taxation violates the equal protection and commerce clauses of the U.S. Constitution.

However, on June 7, only four days after the Supreme Court's announcement, Macy's abruptly announced it had withdrawn its petition in the Proposition 13 case. Macy's claimed it was persuaded to drop the lawsuit by the possibility that a ruling might go beyond its specific arguments about commercial real estate property taxes to include residential tax reductions. Macy's had also been threatened with a consumer boycott of its stores by Richard Gann, son of the late Paul Gann, one of Proposition 13's authors. Business leaders also strongly criticized Macy's legal action, claiming it would mean massive increases in tax bills if the appeal won.

A separate petition challenging Proposition 13 brought by CLIPI on behalf of residential homeowners (*Nordlinger v. State Board of Equalization*, No. B048719) has not yet been reviewed by the U.S. Supreme Court. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 28 and Vol. 11, No. 1 (Winter 1991) pp. 23 and 156 for background information.) CLIPI attorney Ann Carlson, representing Stephanie Nordlinger, said, "If Macy's can't withstand the pressure, elected officials certainly won't. It's an issue that needs to be settled. We're there and we're not going to withdraw."

In a recent *Public Interest Briefs* newsletter, CLIPI reported that its legal action against Los Angeles County's approval of a housing subdivision at Paramount Ranch has moved to the appellate courts. The suit, brought on behalf of the Sierra Club, challenges the County's practice of allowing private developers to select, hire, and pay the consultants charged with preparing environmental impact reports (EIR) for proposed development projects. CLIPI contends that the County's practice encourages an institutionalized conflict of interest on the part of the EIR preparers, while minimizing the chances of obtaining an objective, unbiased EIR. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 23 and Vol. 10, No. 1 (Winter 1990) p. 25 for background information.)

CENTER FOR PUBLIC INTEREST LAW

University of San Diego School of Law
Alcala Park
San Diego, CA 92110
(619) 260-4806

The Center for Public Interest Law (CPIL) was formed in 1980 after approval by the faculty of the University of San Diego School of Law. The faculty selected Robert C. Fellmeth, a law faculty professor, as the Center's director. CPIL is funded by the University and private foundation grants.

The Center is headquartered in San Diego and has branch offices in Sacramento and San Francisco. Each year, approximately fifty law students participate for academic credit as CPIL interns. Students in the Center attend courses in regulated industries, administrative law, environmental law, and consumer law, and attend meetings and monitor activities of assigned regulatory agencies. Each student also contributes quarterly agency updates to the *California Regulatory Law Reporter*. After several months, the students choose clinic projects involving active participation in rulemaking, litigation, or writing.

CPIL's professional staff consists of public interest litigators, research attorneys, and lobbyists. Center staff members actively represent the public interest in a variety of fora, including the courts, the legislature, and administrative agencies.

The Center is attempting to make the regulatory functions of state government more efficient and more visible by serving as a public monitor of state regulatory agencies. The Center studies approximately seventy agencies, including most boards, commissions and departments with entry control, rate regulation, or related regulatory powers over business, trades, professions, and the environment.

MAJOR PROJECTS:

On May 23, the Senate Business and Professions Committee held an oversight hearing on the progress of the Medical Board of California (MBC) in implementing SB 2375 (Presley), the Center's 37-part physician discipline system reform bill enacted by the legislature in 1990. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 81-82; Vol. 11, No. 1 (Winter 1991) pp. 66-67; and Vol. 10, No. 4 (Fall 1990) pp. 79-80 for background information on SB 2375.) While the Board appears to have made some progress in improving its system in certain areas (*see infra* agency report on MBC for details), the two other components of the physician discipline system have yet to fulfill the letter and spirit of the bill.

The AG's office—and specifically the new Health Quality Enforcement Section (HQES) created by SB 2375—is burdened by a huge backlog of investigated cases which must be processed and tried. Due to the case backlog, the 22 attorneys assigned to HQES commonly take over seven months just to prepare the accusation (the complaint, or notice of formal charges, which triggers the disciplinary process against a physician). HQES Chief Al Korobkin (a veteran AG from the San Diego office) promised to seek additional attorney positions if the unit is unable to keep up with the Board.

Under SB 2375, the Office of Administrative Hearings (OAH) is to designate a "Medical Quality List" of administrative law judges (ALJs) who have experience and relevant education/training in hearing complex medical discipline cases. The intent of Senator Presley and the Center in drafting this section of the bill was to replicate the reforms made to the State Bar's discipline system—that is, to create a relatively small panel of ALJs (6-8) who would exclusively hear and specialize in medical discipline cases. However, Karl Engeman, the current director of OAH, has assigned 27 ALJs to the Medical Quality List, and has essentially refused to allow his ALJs to become "specialists". CPIL intends to discuss its concerns about this failure to implement the intent behind SB 2375 with relevant officials, and to pursue other remedies to compel compliance with the intent of the law, as appropriate.

On May 8, the Public Utilities Commission's Telecommunications Education Trust (PUC-TET) approved a one-year extension grant for the statewide expansion of CPIL's Inside Wiring Consumer Education Project. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 30 and Vol. 11, No. 1 (Winter 1991) p. 26 for background information.) Since March 1990, CPIL Program Manager Beth Givens has administered the PUC-TET's initial inside wiring grant, and has researched, written, and supervised the translation of an impressive array of consumer education materials, including informational brochures in eight languages, a public service announcement for television broadcast, and a telephone response line (619-221-7918) which allows consumers to request the educational materials. Due to the success of CPIL's initial grant project, the PUC-TET has approved an extension grant enabling Givens to expand the educational project statewide.

CPIL's research in the telephone inside wiring area (conducted jointly

with the Utility Consumers' Action Network (UCAN)) has also triggered pending reforms in two important areas. First, the legislature is currently considering SB 841 (Rosenthal), which would require landlords to take responsibility for installation and maintenance of the inside wiring in rental units, thereby treating inside wiring the same as other fixtures such as electrical wiring and plumbing. This issue (landlord vs. tenant responsibility for inside wiring in rental units) has been a "gray area" ever since the Federal Communications Commission deregulated inside wiring in 1986. Second, the PUC—in cooperation with Pacific Bell, UCAN, and Toward Utility Rate Normalization (TURN)—is examining changes in Pacific Bell's tariff regarding the company's $35 charge for diagnosing a wiring problem; this fee is expected to be eliminated in the near future. In its research, CPIL identified both issues as significant areas of consumer confusion.

On April 22, CPIL filed comments on the PUC's proposed ex parte rule, which is intended to prevent parties to a regulatory proceeding from communicating with the relevant decisionmaker (either the PUC administrative law judge or the commissioners themselves) outside the public record and in a manner which precludes other parties from knowledge of the communication and an opportunity to respond. (*See infra* agency report on the PUC for related discussion.) Whereas ex parte communications are strictly prohibited in judicial proceedings, neither the PUC nor most other regulatory agencies have a generic ban on ex parte communications. Occasionally, the Commission will impose an ex parte rule in a particular proceeding where it deems such a rule necessary.

The following is an update on CPIL's recent litigation activities:

-On April 30, San Francisco County Superior Court Judge Stuart Pollak awarded the Center another $20,000 in attorneys' fees for its successful representation of 32 Vietnamese refugees who were unfairly denied physician licensure by the Medical Board. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 24 for background information.) Last January, Judge Pollak ordered the Board to pay the Center $76,300 in attorneys' fees and costs; at that point, CPIL became entitled to collect the fees it incurred in preparing and defending its motion for fees. CPIL offered to waive those additional fees in a proposed settlement, but the Board rejected the offer and filed a notice of appeal of the fee award. Thus, CPIL sought and was awarded its additional fees. The Board's appeal is pending.

-On April 25, the California Supreme Court refused to review a lower court decision invalidating Proposition 105, the 1988 measure which contained a "truth-in-initiative-advertising" provision requiring major sponsors of initiative advertising to identify themselves in those ads. Thus, CPIL must dismiss its November 1990 lawsuit on behalf of John Van de Kamp and the "Yes on 131" campaign against the "No on 131" Committee and its major contributors, the political committees of Assembly Speaker Willie Brown and Senate President pro Tem David Roberti. CPIL's action was based on alleged violations of Proposition 105, in that Brown and Roberti failed to identify themselves as major financial backers of the last-minute television blitz which led to the defeat of Proposition 131. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 30 for background information.) Several bills to reinstate the initiative's "truth-in-initiative-advertising" provisions are pending in the legislature (*see infra* GENERAL LEGISLATION).

-On April 4, CPIL filed its opening brief in its appeal of the superior court's decision in *McGuigan v. Board of Psychology*. In this case, the Board denied Dr. McGuigan a hearing on its refusal to waive its licensing examination for over three years. Immediately after CPIL entered the case and filed an action seeking the hearing, the Board reversed course and granted the hearing. The trial court dismissed the action as moot, inasmuch as the Board had granted the hearing. CPIL seeks an order requiring the Board to grant all such applicants a hearing (to which they are entitled under the existing Administrative Procedure Act), not just those who file a lawsuit.

The following is a status update on pending legislation in which the Center is involved:

-AB 1801 (Frazee), the Center's bill to reform the contracting and billing practices of professional engineers and strengthen the enforcement powers of the Board of Registration for Professional Engineers and Land Surveyors, is pending in the Assembly Ways and Means Committee.

-SB 711 (Lockyer), the CPIL-sponsored bill which would prevent parties in litigation from entering into "secrecy agreements" (the sealing of court records, which has the effect of shielding important health and safety information from public knowledge) without notifying the appropriate regulatory agencies, was finally approved by the Senate Judiciary Committee on May 22 by a vote of 6-4. The bill has been targeted by insurers, manufacturers, and big business as one of the "Top Ten Bills to Kill" during 1991.

-SB 310 (Dills), SB 309 (Dills), and AB 2028 (Speier) are bills to reform the administration of the State Lottery and its regulation by the Lottery Commission. They resulted from CPIL's advocacy on the Lottery's regrettable advertising practices and the publication of CPIL staff counsel Elisa D'Angelo's feature article in the Winter 1991 issue of the *Reporter*. All three bills have been stalled in the Assembly Governmental Organization Committee, and have been made two-year bills.

-AB 102 (Connelly), which would reinstate the advance-agenda requirement of the Brown Open Meetings Act applicable to local governments, passed the Assembly on April 29 and is pending in the Senate Committee on Budget and Fiscal Review.

-AB 649 (Floyd) would—in the words of *San Diego Tribune* sports writer Tom Cushman—"KO the boxers' pension plan" established by CPIL Director Bob Fellmeth when he was chair of the State Athletic Commission (*see infra* agency report on ATHLETIC COMMISSION for related discussion). The pension plan was created in 1981, and is funded by a 3% deduction from the monies collected by promoters, boxers, and managers (effectively acting as a 3% gate contribution). Retired boxers may receive payments from the plan once they reach the age of 55, provided they have boxed the required number of rounds to establish eligibility. However, before any boxers have even become eligible for pension payments, the Commission now seeks to make participation in the plan voluntary. Because boxers depend on managers and promoters for desirable matches and, in general, are in an adhesive relationship until or unless they become champions, and since promoters are seeking to end the plan in order to add 3% to their revenues, no boxer would "opt in" to the plan. Thus, Assemblymember Floyd's bill would effectively kill the pension plan. CPIL opposes AB 649.

CPIL Director Robert C. Fellmeth has been asked to deliver the keynote Traynor Forum Lecture at the 1991 Judicial College, which convenes annually and provides an intensive two-week educational program for newly-appointed state judges. The Traynor Lecture is named for Roger J. Traynor, former Chief Justice of the California Supreme Court. Past Traynor lecturers include George Deukmejian, former Attorney General and Governor of California,

Jesse Choper, Dean, Boalt Hall School of Law, Utah Supreme Court Justice Christine Durham, and California Supreme Court Chief Justice Malcolm Lucas. The lecture is scheduled for July 23 at UC Berkeley.

On May 24, the Center for Public Interest Law presented its annual awards to graduating seniors at the University of San Diego School of Law's Awards Ceremony. Bill Braun was selected "Outstanding Public Interest Law Advocate" for his extraordinary initiative in representing the public interest before the Engineers Board. In April 1990, Braun appeared before the Board to argue CPIL's petition to adopt regulations governing the billing practices. When that tactic failed, Braun drafted and secured introduction of AB 1801 (Frazee), which would require all professional contracts between engineers and consumers to be in writing and to contain provisions addressing the material terms of the contract. In April 1991, Braun appeared before the Assembly Consumer Protection Committee and successfully argued his case; the Committee passed the bill by a vote of 10-1. The bill is now moving through the legislature, and has an excellent chance of passage.

Two students tied for CPIL's "Outstanding Contributor to the *California Regulatory Law Reporter*" award. Tom Cavanaugh was chosen for his excellent coverage of the Medical Board of California and the Board of Psychology during 1990-91; Jim Pantone was selected for his outstanding coverage of the Board of Forestry during 1989-90.

COMMON CAUSE

10951 W. Pico Blvd.
Los Angeles, CA 90064
(213) 475-8285

California Common Cause (CCC) is a 55,000-member public interest lobbying organization dedicated to obtaining a more open, accountable, and responsive government and decreasing the power of special interests to affect the legislature.

MAJOR PROJECTS:

Since the November 1990 ballot (which contained a large number of lengthy and conflicting propositions), many political observers have called for substantial initiative reform. Common Cause believes that the real problem has less to do with the initiative process than with the campaigns for and against initiative measures. CCC's top priority this year is to ensure full disclosure of the financial proponents and opponents of ballot measures. Given recent rulings by the First District Court of Appeal and the California Supreme Court which invalidated 1988's Proposition 105, the "Truth in Initiative Act" (*see infra* LITIGATION; *see also* CRLR Vol. 11, No. 2 (Spring 1991) pp. 187-88 for background information), Common Cause is sponsoring SB 116 (Kopp), known as the "Ballot Measure Disclosure Act of 1991." SB 116 would require disclosure of the identity of the major financial backers of an initiative in every form of advertising for or against that initiative. SB 116 is pending in the Senate Committee on Elections and Reapportionment.

Common Cause also supports SB 378 (Craven), which would require part of the current disclaimer on slate mailers ("This is not an official party document") and information on who prepared the mailer to be printed in ten-point type size across the top of each page of each mailer. CCC contends that many voters do not notice the current disclaimer, because it is printed on only one page of the mailer and in very small eight-point type size. According to CCC legislative advocate Ruth Holton, "The use by independent slate mailer organizations of political party names and symbols on slates to imply the endorsement of a political party confuses and misleads voters as to the real position of the political parties." This is particularly true when the slate endorses candidates and positions which are contrary to the position of the political party the slate appears to represent. "Voters should not have to search to find out whether or not the slate represents the official party endorsements," added Holton.

CCC is also lobbying for passage of AB 116, the election day voter registration bill authored by Assemblymember Pete Chacon. The bill would allow Californians to register to vote on election day. According to Common Cause, recent studies show that voter participation is declining. Only 41% of eligible Californians voted in the last statewide election, the lowest turnout ever in California history. A survey conducted by the Charlton Research Company showed that 5% of Californians did not vote in the last election because they had not registered in time. "Clearly these trends are a sign of crisis in our democracy," asserts CCC policy analyst Kim Alexander. "Our system of government relies upon participation of the people. Yet a majority of Californians choose not to participate. It is tragic that under our current registration system, many Californians would like to participate but can't because of administrative barriers." Election day registration would alleviate the current process which requires voters to register 30 days in advance.

Common Cause hopes that this year's redistricting battle required by the 1990 census will not be a repeat of the gerrymandered 1980 process, and is supporting measures for an open and fair redistricting process. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 30 for background information.) Amendments to the 1982 Voting Rights Act make it much easier for minority groups to successfully contest the dilution of voting blocs. Another difference this year is that the legislature and the Governor's office are not controlled by the same party. CCC has called on the Senate, Assembly, and congressional delegations to hold public hearings on redistricting plans, make the maps available in a timely manner, and prohibit amendments to the plans for 14 days before the vote. It will also advocate the use of neutral criteria that will guarantee competitive elections, and oppose any plans drawn to benefit a political party or incumbent.

In June 1990, the voters of Los Angeles approved Measure H, which authorized the use of city funds to partially finance campaigns for elective offices in the city. Backers of Proposition 73, approved by voters in June 1988, filed a legal challenge against Measure H, arguing that public funding of city campaigns is barred by Government Code section 85300 added by Proposition 73. On April 11 in *Johnson, et al. v. Tom Bradley, et al.*, No. B051955, the Second District Court of Appeal upheld the City of Los Angeles' right to partially finance local campaigns, finding that a local government's decision to use its public funds to finance local political campaigns is not a matter of statewide concern. Common Cause had appeared as an *amicus curiae* in the case on behalf of the City. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 31 for background information.)

In March, the Secretary of State's office released figures showing that special interests spent more than $193 million on lobbying during 1989-90 to influence state policymaking. The report revealed a $35 million (22%) increase in campaign contributions over the previous two-year period. CCC's Ruth Holton said, "One of the problems is that this sends a message to many groups and individuals that they need to hire a lobbyist. That's unfortunate. If you are an individual or a private business, you shouldn't need to hire a lobbyist to press your case," she said.

The Western States Petroleum Association, a consortium representing 50 oil companies including Chevron, ARCO,

and Texaco, was the largest contributor, spending $3.77 million. Second-highest was the California Manufacturers Association, spending $3.31 million, followed by the Association of California Insurance Companies, representing 30 insurers, which spent $2.95 million. Other major lobbyists were the California Medical Association at $2.88 million; Pacific Telesis at $2.48 million; the California Cogeneration Council at $1.92 million; the California Teachers Association at $1.85 million; the California Trial Lawyers Association at $1.82 million; and the American Insurance Association at $1.79 million.

CONSUMER ACTION

116 New Montgomery St., Suite 223
San Francisco, CA 94105
(415) 777-9635

San Francisco Consumer Action (CA) is a nonprofit consumer advocacy and education organization formed in 1971. Most of its 2,000 members are in northern California but significant growth has taken place in southern California over the past year. CA is a multi-issue group which since 1984 has focused its work in the banking and telecommunications industries.

CA has filed petitions with and appeared before the California Public Utilities Commission (PUC) in the field of telephone rates. Statewide pricing surveys are published periodically comparing the rates of equal-access long distance companies and the prices of services offered by financial institutions. Once each year, CA publishes consumer service guides for the San Francisco Bay area and the Los Angeles area which list agencies and groups offering services to consumers and assisting with complaints. A free consumer complaint /information switchboard is provided by CA, and the group publishes a regular newsletter which includes the pricing surveys. More than 20,000 individual consumers requested CA publications during 1990. Consumer organizations requested bulk orders of CA publications in 1990 which exceeded 750,000 copies.

MAJOR PROJECTS:

On April 25, CA released its 1991 long distance telephone price survey, which indicates that Sprint has higher rates than MCI or AT&T for a package of 27 long distance calls. During the last year, AT&T's rates fell by 8.5%, while Sprint's dropped by only 4.5%. MCI's prices fell by 8.1%, giving it the lowest total for the package in the survey. Together, MCI, AT&T, and Sprint control 94% of the long distance market. "For the first time since 1984 Sprint could not keep up with matching AT&T's rate reductions," said CA Executive Director Ken McEldowney. The difference between the basic rates of the three major long distance carriers remains small, varying by only $1.15 on the total cost of 27 calls.

According to CA, the past year's rate reductions by long distance companies have benefited businesses more than residential customers. Interstate daytime calls of the three largest companies decreased an average of 1.3%, while night/weekend calls actually increased by as much as 3.1%. CA is alarmed by the rate shift. "We think it shows the carriers are going to ignore residential callers who make few calls and focus their marketing to business customers and heavy users with discount plans," McEldowney commented.

CA is concerned that seven years after the breakup of AT&T, consumers still have little choice in the marketplace. According to McEldowney, long distance rate reductions are mainly the result of reductions in access charges which carriers pay to local phone companies. "We now pay less for long distance calls, but everyone pays a $3.50 access charge. This represents a cost increase for the many consumers who make few long distance calls," he emphasized.

Copies of the long distance survey are available free to consumers who send a self-addressed, business-size envelope with 29 cents postage to the CA office. Survey data is valid as of March 1, 1991. The telephone survey was produced by CA's Telephone Information Project (TIP), which is funded by the Public Utilities Commission's Telecommunications Education Trust. The Trust was established from fines imposed on Pacific Bell by the PUC for deceptive practices in the sale of telephone services.

The April/May 1991 edition of *Consumer Action News* praised the PUC's March approval of "remarkably comprehensive and tough guidelines" for 900-number services in California. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 31 and 175-76 for background information.) The new rules provide state consumers with the power to drive fraudulent and deceptive 900 pay-per-call operations out of California (the regulations do not apply to 900 operations in other states). CA called the decision a sweet victory after the Commission adopted many of CA's positions. The PUC ordered 900-service applicants to consult with CA and other consumer groups when preparing bill inserts describing 900 services. The primary 900 service requirements adopted by the PUC include the following:

-price limits on most calls of $5 for the first minute and $2 for additional minutes, up to a maximum of $50 per call;

-price limits on children's services of $2 per minute and $4 total per call;

-a required disclosure message at the start of all 900 calls and a three-second delay before charges begin, with a minimum of 12 seconds before charges start;

-advance notification to callers when bills for 900 services reach $75 ($30 for Lifeline customers), and again at $150;

-establishment of a specific complaint procedure and refund or adjustment policies;

-free blocking of 900 calls;

-advertising guidelines and safeguards; and

-separate prefixes for "harmful matter."

Consumer Action supports federal legislation on 900-number regulations, H.R. 328 (Rep. Bart Gordon, D-Tennessee), even though at this writing it does not include the most important safeguard—a price cap. The Federal Communications Commission is also considering new 900 regulations.

AB 938 (Speier), sponsored by CA and the California Grocers Association to reduce the amount financial institutions may charge for bounced checks, returned deposits, and other fees, suffered a setback in the Assembly. The "Fair Checking and Savings Account Fee Act," which is a response to consumer complaints that the banking industry charges exorbitant fees totally unrelated to costs for returned checks and other services, was defeated in the Assembly Committee in Banking, Finance and Bonded Indebtedness on May 21. After reconsideration, the bill was narrowly passed by the Committee on May 24. The bill is heading to the Assembly floor at this writing, but is expected to encounter stiff opposition from the banking industry.

CA also supports SB 473 (Marks), which would prohibit employers from using credit reports to screen job applicants or to monitor existing employees. CA believes the practice is unethical and an inappropriate use of credit histories. At this writing, the bill is pending in the Senate Judiciary Committee.

On June 11, CA celebrated its twentieth anniversary with a dinner and fundraiser at the Hyatt Regency Hotel in San Francisco. The event honored two CA founders, Kay Pachtner and Neil Gendel. Pachtner was CA's first executive

director; Gendel was the group's board chair for ten years and is the author of *Break the Bank*, a book on banking and consumerism. The anniversary party's fundraising goal was $20,000, which will be used to underwrite CA's free, multilingual Consumer Complaint Hotline and to augment CA's Publications Fund. The Publications Fund supports distribution of free CA publications to a growing number of community-based organizations. This year, over 800 groups will receive free, multilingual consumer education materials from CA.

CA's Ken McEldowney was recently elected national president of the Consumer Federation of America (CFA). Based in Washington, D.C., CFA is the nation's largest consumer organization. Its members include most U.S. consumer groups, as well as labor unions and rural electric cooperatives. Over 250 groups around the country belong to CFA and have a combined membership of over 50 million. CFA lobbies on behalf of its members before Congress and federal agencies, and has a solid reputation for vigorous and effective advocacy.

CONSUMERS UNION

1535 Mission Street
San Francisco, CA 94103
(415) 431-6747

Consumers Union (CU), the largest consumer organization in the nation, is a consumer advocate on a wide range of issues in both federal and state forums. At the national level, Consumers Union publishes *Consumer Reports*. Historically, Consumers Union has been very active in California consumer issues.

MAJOR PROJECTS:

Once again this year, CU led the fight for no-fault insurance in California by sponsoring SB 941 (Johnston) (see CRLR Vol. 10, No. 4 (Fall 1990) p. 27 and Vol. 10, No. 1 (Winter 1990) p. 28 for background information on CU's previous efforts); and once again, it appears that CU's efforts have been derailed by intense lobbying by the California Trial Lawyers Association and Voter Revolt, and the maneuverings of Assembly Speaker Willie Brown, who is sponsoring his own competing bill, AB 1375. Although Brown's bill would establish a low-cost policy for qualifying, low-income, good drivers and reinstate the private cause of action for bad faith against insurers, it would largely leave the existing fault-based tort system intact. (*See infra* agency report on DEPARTMENT OF INSURANCE for further information on these bills.)

On May 9, CU—along with numerous other public interest organizations and State and Consumer Services Agency Secretary Bonnie Guiton—released the results of a study indicating that consumers would save money if SB 941 becomes law. SB 941 would reduce auto insurance premiums by requiring that a new $220, no-frills, no-fault policy be offered to all good drivers in the state. The basic policy would provide $15,000 per person coverage for health care and wage losses; drivers in accidents would file claims with their own insurance company regardless of fault. Those with serious or permanent injuries could still receive pain and suffering awards by suing the at-fault driver. Supporters of SB 941 estimate that 80% of auto accident cases would be removed from the court system with the passage of the bill.

CU reports that the availability of such a policy coupled with the requirement to show proof of insurance when registering a car will virtually eliminate uninsured drivers in California. Governor Wilson also announced his support for the bill, stating that drivers would save hundreds of dollars per year in insurance costs with the no-fault policy created under SB 941. However, after unprecedented lobbying by Brown and the trial lawyers, SB 941 was rejected by the Senate Judiciary Committee on May 28; at this writing, it does not appear that Senator Johnston will seek reconsideration for SB 941 this year.

On April 29, CU issued a report which charges that credit reporting companies' information on consumers is often incomplete, incorrect, and difficult to decipher. CU called on Congress to correct the problems and protect the privacy of credit report files. The CU study included information on 161 credit reports in several cities nationwide, compiled by 57 consumers who are CU employees or acquaintances of CU employees. Each requested copies of their credit reports from the nation's three largest credit bureaus: TRW, Trans Union, and Equifax.

Participants in the CU study noted that 48% of the 161 reports contained inaccurate information; 27% of the reports reviewed had been seen by persons whom the participants had never authorized to see the reports; 19% of the reports contained a major inaccuracy; and credit was denied to one participant based on inaccurate information in her credit file.

Over 400 million files are maintained by the credit reporting industry, and CU acknowledges that its research project was too limited to reach decisive conclusions about the overall accuracy of information in the files. However, CU contends that mistakes are not uncommon and have been previously documented; Consolidated Information Service's 1988 survey of 1,500 credit files found errors in 43% of the files surveyed. Projections from this data indicate that as many as 172 million credit reports may contain mistakes.

CU's recommendations to Congress include strategies for assisting consumers in finding out what credit bureaus are saying about them; forcing credit bureaus and creditors to correct inaccurate information; and making credit files confidential.

Assemblymember Lloyd Connelly and Insurance Commissioner John Garamendi joined CU at an April 25 press conference to call for passage of AB 2107 (Connelly), the Credit Life and Disability Insurance Reform Act. CU claims the bill could save California insurance consumers $45 million per year by reforming credit insurance regulation and returning to the Department of Insurance (DOI) the power to regulate rates for credit insurance. Credit insurance pays the outstanding balances on consumer loans if a borrower dies or becomes disabled. Credit insurers earn more than $600 million per year in the state, largely because a 1985 bill stripped DOI of the power to regulate them. AB 2107 would allow DOI to decide how much of the premium dollar a company must pay out in policyholder claims; allow DOI to force companies to lower their premiums if they do not pay out enough consumer claims; and prohibit writing or selling "gross debt coverage," in which the credit insurance covers interest on the loan that is not yet due. CU has studied this problem for several years (see CRLR Vol. 10, No. 4 (Fall 1990) pp. 27-28 for background information), and has long maintained that consumers are grossly overcharged for credit insurance which is often unnecessary. AB 2107 is pending in the Assembly Ways and Means Committee.

On April 24, CU issued a report which estimates that California's three-year temporary deregulation of retail credit card interest rates is costing California consumers $106.4 million per year, for a total of $319.3 million. The deregulation began on January 1, 1989, after passage of SB 2592 (Dills) (Chapter 479, Statutes of 1988). (See CRLR Vol. 10, No. 1 (Winter 1990) p. 27 and Vol. 8, No. 4 (Fall 1988) p. 128 for background information.) Under SB 2592, retail credit card interest rates were allowed to increase above the existing 18% cap on balances under $1,000 and the 12% cap for balances of $1,000 and above.

According to CU, the deregulation has increased retail credit interest rates on small balances by about two percentage points (from 18% to 20.15%); for balances over $1,000, rates have increased about eight percentage points (from 12% to 20.15%). Each percentage point over 18% means that California consumers pay another $50 million annually in interest charges.

The report also includes the results of a CU survey on the availability of credit in inner city and nearby urban areas. Of 77 stores surveyed, only 25% offered any retail credit. The lack of credit availability among the smaller retail stores surveyed is inconsistent with the argument made in support of SB 2592; the bill's sponsors had predicted that deregulation would make credit more available to low-income consumers.

CU cautions that the scheduled return to rate caps of 12% and 18% is in jeopardy; SB 1105 (Dills), sponsored by the California Retailers Association, would permanently deregulate retail credit interest rates. CU opposes SB 1105, which passed the Senate on May 24 and is pending in the Assembly Committee on Banking, Finance, and Bonded Indebtedness.

On March 28, Health Access, a health care coalition of which CU is a prominent member, released a report entitled *The Right Way to Spend California's 70 Billion Health Care Dollars.* Judith Bell, CU's Director of Special Projects and editor of the report, notes that California spends nearly 12% of its state product on health care. The report states that although Californians spend more than $70 billion per year on basic health care, close to six million Californians do not have health insurance coverage. The report contends that, by restructuring its system, the state could spend the same amount of health care dollars and cover all Californians' health care needs, including long-term care.

The report reviews several proposals for solving California's health crisis and focuses on the Health Access Plan—a proposal to achieve universal, affordable, comprehensive health coverage. The plan would change the way health care is paid for without significantly altering the delivery of care. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 32 for background information.) Monies currently paid for health care would be collected into a single publicly-financed system. The plan is based on the Canadian system but also includes some unique features of California's health care market, such as managed care systems like Kaiser.

The Health Access Plan relies on a tax-based financing system with monies coming through a government-employer-employee-taxpayer partnership. Hospitals would negotiate budgets; doctors would be tied to a negotiated fee schedule. Consumers could choose an individual doctor or a prepaid health care plan to receive care. CU notes that SB 36 (Petris), currently pending in the Senate Revenue and Taxation Committee, is based on the Health Access Plan.

CU has taken a position on numerous bills pending in the legislature this session, including the following:

-CU supports AB 2225 (Roybal-Allard), which would require the Department of Health Services to develop a Medically Needy Outreach Program and conduct a one-year study of the program's effectiveness. This bill is pending in the Assembly Ways and Means Committee.

-CU supports AB 1672 (Margolin), which would require specified notice requirements to insurance consumers who are facing cancellation, nonrenewal, or the prospect of increased premiums for certain types of insurance. This bill is pending in the Assembly Insurance Committee.

-CU supports AB 148 (Margolin), which would increase the penalties applicable to persons who engage in any unfair method of competition or any unfair or deceptive act or practice in the business of insurance. This bill is pending in the Assembly Insurance Committee.

-CU supports SB 1190 (Killea), which would create a licensing program for midwives within the Medical Board. At this writing, this bill is pending in the Senate Business and Professions Committee.

Discovery is continuing in *Aetna Finance Co. v. Consumers Union,* No. 926772 (San Francisco County Superior Court). In this action, CU alleges that Aetna, which transacts business in California as ITT Financial Services, added an illegal overcharge to more than 50,000 consumer loans in the past four years. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 27 for background information.)

ENVIRONMENTAL DEFENSE FUND

Rockridge Market Hall
5655 College Ave.
Oakland, CA 94618
(415) 658-8008

The Environmental Defense Fund (EDF) was formed in 1967 by a group of Long Island scientists and naturalists concerned that DDT was poisoning the environment. EDF was a major force behind the 1972 federal ban of DDT.

Staffed by scientists, economists, and attorneys, EDF is now a national organization working to protect the environment and the public health. Through extensive scientific and economic research, EDF identifies and develops solutions to environmental problems. EDF currently concentrates on four areas of concern: energy, toxics, water resources, and wildlife.

MAJOR PROJECTS:

On May 31, EDF joined with the Sierra Club Legal Defense Fund, the Natural Resources Defense Council, and seven chapters of the Audubon Society in a lawsuit filed in Sacramento County Superior Court against the Water Resources Control Board (WRCB) for its alleged failure to protect water quality in the Sacramento-San Joaquin River Delta, which flows into and helps flush and clean San Francisco Bay. The suit seeks to overturn WRCB's May 1 adoption of a Water Quality Control Plan which establishes new salinity standards to protect municipal, industrial, agricultural and environmental uses of the Delta. The environmental groups assert that WRCB's Plan, which is the latest step in the Board's four-year-old proceeding to establish new standards to protect the waters of the Bay/Delta, fails to adequately protect declining and endangered species, including the chinook salmon, striped bass, and Delta smelt. The groups claim that the new standards violate laws enacted to protect the Delta estuary's fish and plant life, including the California Endangered Species Act, the federal Clean Water Act, the California Porter-Cologne Water Quality Control Act, the California Environmental Quality Act, and state and federal anti-degradation laws. (*See infra* agency report on WRCB for related discussion.)

The conservationists seek to require WRCB to allow more fresh water to flow through the Delta. They assert the additional flow of water is necessary to restore the ecosystem of the estuary, which is dependent on the mixing of fresh and salt water.

In November 1989, EDF and the Metropolitan Water District of Southern California (MWD) challenged a WRCB decision to allow the Azusa Land Reclamation Company to dump over 30 million tons of Los Angeles-area garbage into gravel pits on 302 acres above the San Gabriel Basin—an underground aquifer and source of drinking water for one million people. In EDF's April newsletter, the group reported that in its

lawsuit, *MWD, et al. v. State Water Resources Control Board*, the California Supreme Court recently declined to review a January 1991 appellate court order halting the dumping until an environmental impact report is completed. EDF said there is evidence the landfill would leak into the aquifer and that an EIR would prove the case. EDF believes the alternative to expanding the landfill is an aggressive recycling program.

Motor vehicles are the cause of two-thirds of the pollutants in the air over the Los Angeles, Orange, Riverside, and San Bernardino County region. At this writing, air quality regulators at the Southern California Association of Governments and the South Coast Air Quality Management District are considering proposals to increase the cost of solo commuting, such as periodic odometer checks with fees for excessive mileage, increased parking costs, and smog taxes on gas and diesel fuels.

A study by EDF analyst Michael Cameron projects that a package of fee increases averaging $5-$6 per day per vehicle would reduce hydrocarbon emissions by 19%. The EDF study suggested regionwide peak-period pricing in the most congested corridors during the busiest hours, along with parking fees at shopping malls, high schools, and other nonwork parking facilities. The study recommended that an annual smog fee be assessed on each vehicle based on its emissions performance and the number of miles driven. New vehicles could be granted sales tax credits or penalties depending on fuel efficiency. EDF also urged the use of more private, for-profit van pools similar to those now serving airports. These policy changes would encourage more efficient use of transportation and, while initial costs to drivers would be higher, would produce savings over the long term. Besides reducing the enormous economic costs of pollution and congestion, pricing reforms would preclude the need to build new highways.

EDF wants the federal government to dramatically reduce sulfur dioxide emissions from the coal-burning Navajo Generating Station in Arizona, a plant that is partly owned by the federal government. The powerplant sits in the center of the "Golden Circle" of national parks, including the Grand Canyon, Arches, Bryce, Canyonlands, Capitol Reef, Mesa Verde, Petrified Forest, and Zion. Air quality in the region of these eight major national parks has been declining steadily in the past several years. In response to a court order won by EDF in 1984, the U.S. Environmental Protection Agency (EPA) has proposed new controls on the plant, which is the largest source of sulfur dioxide in the southwest. However, EDF contends the proposal does not go far enough and that the emissions control plan should be strengthened to eliminate three times as many high pollution days in the region.

The EPA plan would allow the Navajo plant to continue to emit 21,000 tons of sulfur dioxide per year. EDF, citing EPA's own study, says state-of-the-art technology could reduce emissions to less than 5,000 tons per year and would only cost 5% more. According to EDF's April newsletter, EPA initially drafted a stronger proposal, but pressure from the White House Office of Management and Budget forced EPA Administrator William K. Reilly to reduce the level of protection for the parks. Some Bush administration officials are now seeking even weaker regulations to allow emissions reductions only during the winter when the air quality impact is greatest. EDF, the Grand Canyon Trust, National Parks and Conservation Association, Natural Resources Defense Council, Sierra Club, and Wilderness Society sent President Bush a letter urging him to support state-of-the-art emission control technology. The letter said the controls would add about $1.65 per month to the average area homeowner's electric bill, only 15 cents more than the watered-down EPA proposal.

FUND FOR ANIMALS

Fort Mason Center, Bldg. C
San Francisco, CA 94123
(415) 474-4020

Founded in 1967, the Fund works for wildlife conservation and to combat cruelty to animals locally, nationally, and internationally. Its motto is "we speak for those who can't." The Fund's activities include legislation, litigation, education, and confrontation. Its New York founder, Cleveland Amory, still serves without salary as president and chief executive officer.

MAJOR PROJECTS:

On April 8, Yellowstone National Park rangers fatally shot three pregnant bison to obtain tissue samples for a study of whether brucellosis, an infectious disease that causes domestic livestock to abort their young, cam be transmitted from bison. The Park Service had planned to kill 22 additional bison for its study; however, Fund for Animals sought and was granted a temporary restraining order from U.S. District Court Judge George Revercomb in Washington, which prohibited the Service from further bison kills until the conclusion of a hearing on the matter. On April 11, Fund for Animals announced that the Service had agreed to drop its plans to kill additional bison for the research project. The Fund, which had characterized the kills as "an extreme attempt to pander to the irrational concerns of the cattle industry," considered the Service's concession to be a major victory, and terminated the proceeding in federal court. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 29 for related information.)

The May edition of Fund for Animals' *California Legislation 1991 Action Alert* reported that the Department of Fish and Game has recommended to the Fish and Game Commission (FGC) that all California trappers dispose of existing steel-jawed traps, and replace them with new "padded" traps to reduce injury to endangered species and non-target animals. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 156 and Vol. 11, No. 1 (Winter 1991) p. 125 for background information.) Fund for Animals also recommended that FGC mandate only the "humane" killing of animals caught in traps, and that trappers not be allowed to stomp, suffocate, club, or strangle trapped animals.

As of May 1, Fund for Animals had taken the following positions on bills pending in the state legislature:

-oppose AB 145 (Harvey), which, as amended March 20, would increase the minimum fine for persons interfering with specified hunting activities;

-support AB 159 (Floyd), which, as introduced December 19, would eliminate the drugging of horses entered in horse races and regulate the medication of racehorses sold at horse or auction sales;

-oppose AB 997 (Mountjoy), which, as introduced March 4, would allow FGC to permit the sport hunting of Nelson bighorn sheep anywhere in the state;

-support AB 2021 (Polanco), which, as amended May 24, would require warranties, veterinary care, and exercise for dogs in pet shops and those sold by large-scale breeders; and

-support SB 1020 (Rosenthal), which, as amended April 29, would require pet dealers to post signs and disclose in advertisements that breed registration does not assure good health or guarantee the breeding conditions or quality of a dog.

As reported in CRLR Vol. 11, No. 2 (Spring 1991) at page 33, Fund for Animals also supports the following bills:

-AB 110 (O'Connell), which, as amended March 18, would ban the use of the painful Draize eye irritancy and

skin irritancy tests on animals in California for cosmetic and household cleaning products;

-AB 500 (Farr), which, as amended April 25, would provide minimum standards for the transportation of horses, including a ban on the use of double-decker and pot-bellied cattle trucks;

-AB 1660 (Speier), which, as amended May 29, would require that a licensed veterinarian be present at all rodeos to treat injured animals, and that local humane enforcement officials be notified in advance of rodeos;

-AB 1000 (Hauser), which, as amended May 6, would add poultry to the list of animals which must be slaughtered pursuant to specified methods in commercial facilities under California's Humane Slaughter Act;

-SB 15 (Robbins), which, as amended April 15, would expand existing law regarding dogs stolen for research or any commercial purposes to cover the theft of all animals;

-SB 719 (Marks), which, as amended May 8, would ban veal calf crates and require that calves be able to at least lie down, turn around, and move comfortably in their enclosures;

-SB 318 (McCorquodale), which, as amended April 23, would set minimum standards for the care and treatment of elephants in captivity; and

-SB 1013 (Thompson), which, as amended April 25, would ban alligator farms in California if the alligators are kept for the use of their meat or hides.

LEAGUE FOR COASTAL PROTECTION

P.O. Box 190812
San Francisco, CA 94119-0812
(415) 777-0220

Created in 1981, the League for Coastal Protection (LCP) is a coalition of citizen organizations and individuals working to preserve California's coast. It is the only statewide organization concentrating all its efforts on protecting the coast. The League maintains a constant presence in Sacramento and monitors Coastal Commission hearings.

MAJOR PROJECTS:

On May 24, LCP announced its opposition to SB 1062 (Maddy), which would amend the 1976 California Coastal Act to allow the Walt Disney Company to build a $3 billion seaside theme park-resort by filling in part of Long Beach Harbor. (*See infra* agency report on CALIFORNIA COASTAL COMMISSION; *see also* CRLR Vol. 11, No. 1 (Winter 1991) p. 124 for background information.) The bill would amend the Coastal Act to exempt Disney from current prohibitions on the filling and dredging of open coastal waters. SB 1062, which is also opposed by the Coastal Commission and the Sierra Club, among others, is pending in the Senate Natural Resources and Wildlife Committee.

LCP supports AB 854 (Lempert), which would create the California Coastal Sanctuary, prohibit new oil and gas leasing in the Sanctuary, and provide the Coastal Commission and State Lands Commission with new enforcement powers. This bill is pending on the Assembly floor. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 33-34 for detailed background information.)

NATURAL RESOURCES DEFENSE COUNCIL

90 New Montgomery St., Suite 620
San Francisco, CA 94105
(415) 777-0220

The Natural Resources Defense Council (NRDC) is a nonprofit environmental advocacy organization with a nationwide membership of more than 125,000 individuals, more than 38,000 of whom reside in California. Since 1972, NRDC's western office in San Francisco has been active on a wide range of California, western, and national environmental issues. Most of that work is now grouped under five subject-matter headings: public lands, coastal resources, pesticides, energy, and water supply. In these areas, NRDC lawyers and scientists work on behalf of under-represented environmental quality interests before numerous state and federal forums. Public health concerns are increasingly a priority, in addition to conservation of nonrenewable resources and ecosystem preservation.

NRDC has been active in developing energy conservation alternatives to new power plants and offshore oil drilling, and resource-conserving land use policies in California's coastal counties and federally-managed lands. Notable recent achievements by NRDC include leadership of coalitions which have developed broadly-supported federal legislative initiatives on pesticide regulation and efficiency standards for household appliances.

Agricultural water supply and drainage issues are taking on growing importance with NRDC, including the widely-publicized contamination of the Kesterson Wildlife Refuge and the broader policy issues underlying that crisis. In California, NRDC appears frequently before the Coastal Commission, Energy Commission, and Public Utilities Commission. NRDC headquarters is in New York City, with branch offices in Washington, D.C., San Francisco, Los Angeles, and Honolulu.

MAJOR PROJECTS:

In mid-May, Security Environmental Systems (SES) and its subsidiary, California Thermal Treatment Services, announced that they have abandoned plans to build a huge $29 million toxic waste incinerator in East Los Angeles adjacent to low-income residential communities. The move represents a tremendous victory for NRDC and the community of Vernon. Since 1988, NRDC attorney Joel Reynolds has represented the Mothers of East Los Angeles in opposition to the project. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 34 and 141 for background information.) NRDC helped the group intervene in administrative proceedings and file lawsuits against agencies which approved permits for the polluting facility, including the South Coast Air Quality Management District, the Department of Health Services, and the U.S. Environmental Protection Agency (EPA). In 1990, NRDC's client and another group, the Concerned Citizens of South Central Los Angeles, protested the incinerator through demonstrations in the streets and litigation in both state and federal courts. In February 1991, the Second District Court of Appeal unanimously ruled that the project could not go forward without the completion of a full environmental impact statement. The court also ordered that the health risk assessment prepared on the project be redone, after new evidence indicated potential emissions of dioxins and furans of 100 to 1,000 times more than the original estimate, and called for use of the best available pollution control equipment. On May 2, the California Supreme Court declined to review that decision—thus leading to SES' abandonment of the project.

NRDC's April 1991 *Newsline* newsletter announced the initiation of the first national advocacy program for the environmental well-being of children. NRDC's work on children's issues started in 1989 with the release of its study, *Intolerable Risk: Pesticides in Our Children's Food.* The report pointed out the government's failure to consider the greater vulnerability of children to pesticides when setting health-based residue tolerances. The study brought considerable public attention to the fact that a child's environment is different than an adult's, as is a child's biochemical

and physiological response to the environment. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 34-35; Vol. 9, No. 4 (Fall 1989) p. 22; and Vol. 9, No. 2 (Spring 1989) pp. 30-31 for background information.)

According to NRDC, three to six million children in the United States are suffering from the toxic effects of exposure to lead. The Centers for Disease Control reports that lead poisoning is the number one environmental problem facing America's children. Children are exposed to lead by way of chipped paint, toys, drinking water, fertilizers, and even "unleaded" gasoline. Even in small amounts, lead attacks the nervous system and can have a range of effects from decreased academic performance to mental retardation.

Along with a coalition of environmental, poverty, and civil rights legal groups, NRDC is pursuing *Matthews v. Kizer*, No. C90-3620-EFL, its federal class action calling for enforcement of a 1989 law passed by Congress requiring blood testing for lead exposure as part of a health screening program for poor children. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 30 for background information on this case.) The legal action names the state Department of Health Services as the defendant, and demands that the agency comply with federal law by including lead blood assessments and treatment as a mandatory part of health screening. NRDC filed a motion for summary judgment on May 24; a hearing was scheduled for late June in San Francisco.

In mid-April, NRDC intervened with other groups in *Les v. Reilly*, a lawsuit to compel the removal of four pesticides used on food crops from the market. The case is currently before the U.S. Ninth Circuit Court of Appeals in San Francisco, and briefing is scheduled over the summer. The suit, another step in the long-running battle between the EPA and environmentalists, is technically a petition for review of an EPA finding of a *"de minimis"* exception to a 33-year-old section of the Food, Drug and Cosmetic Act known as the Delaney Clause, which strictly prohibits the use of food additives which are found to cause cancer in humans or animals. (*See infra* agency report on CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE; *see also* CRLR Vol. 11, No. 2 (Spring 1991) pp. 137-38 for background information.) Citing this alleged exception, the EPA refused to revoke the registration of four pesticides which environmentalists asked the agency to ban (trifluralin, used on spearmint and peppermint plants; benomyl, used on raisins and tomatoes; phosmet, sprayed on cotton from which cottonseed oil is extracted; and mancozed, used on raisins and wheat).

On May 31, NRDC joined with the Sierra Club Legal Defense Fund, the Environmental Defense Fund, and seven chapters of the Audubon Society in a lawsuit filed in Sacramento County Superior Court against the Water Resources Control Board (WRCB) for its alleged failure to protect water quality in the Sacramento-San Joaquin River Delta, which flows into and helps flush and clean San Francisco Bay. The suit seeks to overturn WRCB's May 1 adoption of a Water Quality Control Plan which establishes new salinity standards to protect municipal, industrial, agricultural and environmental uses of the Delta. The environmental groups assert that WRCB's Plan, which is the latest step in the Board's four-year-old proceeding to establish new standards to protect the waters of the Bay/Delta, fails to adequately protect declining and endangered species, including the chinook salmon, striped bass, and Delta smelt. The groups claim that the new standards violate laws enacted to protect the Delta estuary's fish and plant life, including the California Endangered Species Act, the federal Clean Water Act, the California Porter-Cologne Water Quality Control Act, the California Environmental Quality Act, and state and federal anti-degradation laws. (*See infra* agency report on WRCB for related discussion.)

The conservationists seek to require WRCB to allow more fresh water to flow through the Delta. They assert the additional flow of water is necessary to restore the ecosystem of the estuary, which is dependent on the mixing of fresh and salt water.

PACIFIC LEGAL FOUNDATION

2700 Gateway Oaks Dr., Suite 200
Sacramento, CA 95833
(916) 641-8888

The Pacific Legal Foundation (PLF) is a public interest law firm which supports free enterprise, private property rights, and individual freedom. PLF devotes most of its resources to litigation, presently participating in 96 cases in state and federal courts.

MAJOR PROJECTS:

On June 3 in *R.H. Macy & Co. v. Contra Costa County*, No. 90-1603, the U.S. Supreme Court agreed to determine the constitutionality of Proposition 13, the property tax limit approved by the voters in 1978. PLF has defended Proposition 13 on numerous occasions in state court, and had filed an opposition to Macy's petition for review to the high court. In an unusual move only four days later, Macy's abruptly abandoned its challenge, claiming that a court opinion might extend beyond commercial real estate property taxes to include residential tax issues. However, Macy's had been threatened with a consumer boycott of its stores by Richard Gann, son of the late Paul Gann, one of Proposition 13's authors. The business community had also strongly criticized Macy's challenge, claiming that a Macy's win in court would mean massive property tax hikes. Although it dodged one bullet, Proposition 13 is not completely safe; the U.S. Supreme Court is currently reviewing another petition for certiorari filed by residential homeowners challenging the validity of the initiative. (*See supra* report on CENTER FOR LAW IN THE PUBLIC INTEREST; *see also* CRLR Vol. 11, No. 2 (Spring 1991) p. 28 and Vol. 11, No. 1 (Winter 1991) pp. 23 and 156 for background information.)

On March 27, the California Supreme Court agreed to hear *Legislature v. Eu*, No. S019660, the constitutional challenge to Proposition 140 brought by the legislature and several individuals and legislators. Proposition 140 is the term limitation initiative approved by voters in November 1990. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 35 for background information.) PLF has intervened in the case on behalf of Peter Schabarum and Californians for a Citizen Government, Proposition 140's author and sponsor, respectively. All seven justices signed the order and instructed attorneys to file briefs by May 1, but no date was set for oral argument. Some attorneys working on the case believe the court could hear the case in June and issue a decision on an expedited basis—possibly before the start of the new fiscal year when the 38% legislative budget reduction required by Proposition 140 would take effect.

Represented by San Francisco attorney Joe Remcho, plaintiffs challenge the validity of Proposition 140 on several grounds, including the following: (1) its term limit provisions are fundamental revisions to the state constitution which are properly made through a special constitutional hearing process—not by way of a mere constitutional amendment in a citizens' initiative; (2) Proposition 140's inclusion of provisions on term limits for legislators, a 38% cut in the legislature's operating budget, and elimination of the legislature's pension plan violates the single-subject rule; and (3) the initiative

violates the right of self-determination in that it has allowed voters in one part of the state to determine who may not represent voters in other parts of the state. PLF attorney Jonathan Coupal recently stated that the initiative is "bullet-proof," and said that Proposition 140 will result in a more efficient and representative state government.

PLF is defending a Sonoma County ordinance designed to halt intermittent strikes by public employees. In *Sonoma County Organization of Public/Private Employees (SCOPE) v. County of Sonoma*, PLF hopes the court will uphold the ordinance, which was enacted after contract negotiations broke down and the county employee labor organization began intermittent one- or two-day walk-out actions. The ordinance, possibly the only one of its kind in California, authorizes department heads to place striking public employees on administrative unpaid leave, and requires workers to sign written agreements that their erratic attendance will cease before they are returned to full-pay status. The employee group sued the county, charging that the ordinance interferes with their right to strike recognized by the California Supreme Court in *County Sanitation District No. 2 v. Los Angeles County Employees' Association*, 38 Cal. 3d 564 (1985). PLF hopes its participation in this case will create an opportunity for the current Supreme Court to review and reverse the 1985 decision.

PLF recently represented Security Environmental Systems (SES) in a series of cases challenging SES' proposal to build a large toxic waste incinerator near the densely-populated, low-income neighborhood of Vernon, near downtown Los Angeles. PLF agreed with SES that the proposed incinerator was a state-of-the-art hazardous waste disposal system, reputed to be a sound alternative to land disposal. SES had been given state and federal permits to plan the project in 1985 without having to conduct a detailed environmental impact study. However, local and national environmental groups sued on behalf of a local citizens group to invalidate the permits. In February, the Second District Court of Appeal issued a unanimous order requiring SES to complete a full environmental impact statement on the project; the Supreme Court declined to review that decision on May 2. In mid-May, SES announced that it has abandoned its plans to build the incinerator. (*See supra* report on NATURAL RESOURCES DEFENSE COUNCIL; *see also* CRLR Vol. 11, No. 2 (Spring 1991) pp. 34 and 141 for background information on this case.)

PLF continues to pressure the State Bar on its implementation of the U.S. Supreme Court's ruling in *Keller v. State Bar of California*. (*See infra* agency report on STATE BAR; *see also* CRLR Vol. 11, No. 2 (Spring 1991) pp. 35 and 183; Vol. 11, No. 1 (Winter 1991) pp. 31 and 150-51; and Vol. 10, No. 4 (Fall 1990) p. 187 for background information on this case.) At the urging of PLF, 100 attorneys appealed the sufficiency of the $3 dues deduction allowed by the Bar to cover the cost of "nonchargeable" activities—that is, the Bar's use of compelled membership dues toward political or ideological activities with which members may disagree. In early May, the Bar announced its rejection of all 100 appeals. The challenges must now go to arbitration. If the challengers and the Bar cannot agree on an arbitrator, the American Arbitration Association will appoint one, and conduct the arbitration under the Association's rules.

PLANNING AND CONSERVATION LEAGUE

909 12th St., Suite 203
Sacramento, CA 95814
(916) 444-8726

The Planning and Conservation League (PCL) is a nonprofit statewide alliance of several thousand citizens and more than 100 conservation organizations devoted to promoting sound environmental legislation in California. Located in Sacramento, PCL actively lobbies for legislation to preserve California's coast; prevent dumping of toxic wastes into air, water, and land; preserve wild and scenic rivers; and protect open space and agricultural land.

PCL is the oldest environmental lobbying group in the state. Founded in 1965 by a group of citizens concerned about uncontrolled development throughout the state, PCL has fought for over two decades to develop a body of resource-protective environmental law which will keep the state beautiful and productive.

Since its creation, PCL has been active in almost every major environmental effort in California and a participant in the passage of numerous pieces of significant legislation, including the California Environmental Quality Act, the Coastal Protection Law, the act creating the Bay Conservation and Development Commission, the Lake Tahoe Compact Act, the Energy Commission Act, the Wild and Scenic Rivers Act, and laws which enhance the quality of urban environments.

PCL is supported by individual and group membership fees, with a current membership of more than 9,500 individuals. PCL established its nonprofit, tax-deductible PCL Foundation in 1971, which is supported by donations from individuals, other foundations, and government grants. The Foundation specializes in research and public education programs on a variety of natural resource issues. It has undertaken several major projects, including studies of the California coast, water quality, river recreation industries, energy pricing, land use, the state's environmental budget, and implementation of environmental policies.

MAJOR PROJECTS:

In the April edition of its *California Today* newsletter, PCL issued an "alert" on the proposed Auburn Dam, which is to be constructed northeast of Sacramento on the North and Middle Forks of the American River. Ostensibly constructed for flood control in Sacramento, the Auburn Dam would permanently store water, thereby destroying forty miles of the North and Middle Forks. PCL believes it has the potential to be the most environmentally destructive project since the New Melones Dam on the Stanislaus River. Dam proponents are seeking about $800 million in state and federal funds to finance the project. The public comment period on the environmental impact studies recommending construction of the dam was scheduled to end on June 14.

According to the April issue of *California Today*, groundwater contamination is one of the most important and intractable problems facing California. State residents rely on underground well-water for nearly half of their water needs. Yet the state spends only $15 million per year on groundwater improvement. At PCL's request, Senator Robert Presley introduced SB 959, which would raise badly needed funds to help clean up polluted groundwater basins, provide safe drinking water supplies, and restore damaged fish and wildlife populations. SB 959 would impose a small fee on urban water users to pay for solutions to these problems, raising two to three hundred million dollars a year.

The new fund provided by SB 959 would make money available for the most impoverished of small local water districts. The bill would also assist with water-dependent wildlife restoration, such as the purchase and improvement of wetlands. At this writing, SB 959 is pending on the Senate floor.

More than 300 people attended PCL's annual Legislative Symposium in Sacramento on February 16-17. Panel discussion

topics included environmental politics and energy conservation; in addition, PCL conducted workshops on such issues as water development, wildlife protection, toxics, pesticides, and corporate responsibility, and held a special session on women in the environmental movement.

Guest speakers included Douglas Wheeler, Secretary of the state Resources Agency; Richard Sybert, Director of the Office of Planning and Research; and State Lands Commission Director Charles Warren, who is also a PCL Board member. Wheeler discussed the conservation policies of agencies which report to him—including the Departments of Fish and Game, Parks and Recreation, and Water Resources. Sybert told the symposium about the need for better local and regional planning and the Governor's interest in improving the planning process. Governor Wilson has named Sybert as head of a cabinet-level task force examining proper state roles to reduce the impact of growth on the state's environment. Warren discussed the State Lands Commission's intention to broaden its role in managing the thousands of acres of state lands, including many rivers, to include an aggressive program of environmental management and enhancement.

At the symposium, PCL's David Gaines Award (named after the late founder of the Mono Lake Committee) was presented to Heal the Bay, a southern California group founded by PCL Board member Dorothy Green. Heal the Bay has worked to successfully improve the level of treated wastewater that is discharged into Santa Monica Bay.

Senator Gary Hart (D-Santa Barbara) was named 1990 Legislator of the Year for his "Drive-Plus" bill (SB 431), which would establish sales tax credits for new cars with lower than average emissions and a sales tax surcharge for new cars with high emissions. The bill was vetoed last year by former Governor Deukmejian and Hart has reintroduced it, hoping it will gain the support of Governor Wilson. Hart has also reintroduced SB 260, another bill vetoed last year. SB 260 would authorize courts to place corporations which repeatedly violate environmental laws on criminal probation. Senator Hart is a member of the important Senate Committee on National Resources and Wildlife, and has almost always received an environmental voting score of 100% from the California League of Conservation Voters.

Finally, PCL was presented with the National Railroad Passengers' "Golden Spike" award at the Legislative Symposium. The coveted award was given for PCL's successful efforts to qualify and pass Proposition 116 in June 1990. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 32 and Vol. 10, No. 1 (Winter 1990) p. 32 for background information.) The $1.99 billion rail transportation bond act was the first citizens' initiative devoted to public transportation in more than fifty years, and was approved by more than 53% of the voters.

PUBLIC ADVOCATES

1535 Mission St.
San Francisco, CA 94103
(415) 431-7430

Public Advocates (PA) is a nonprofit public interest law firm concentrating on the areas of education, employment, health, housing, and consumer affairs. PA is committed to providing legal representation to the poor, racial minorities, the elderly, women, and other legally underrepresented groups. Since its founding in 1971, PA has filed over 100 class action suits and represented more than 70 organizations, including the NAACP, the League of United Latin American Citizens, the National Organization for Women, and the Gray Panthers.

MAJOR PROJECTS:

On April 18, the California Supreme Court denied PA's petition for review of the Public Utilities Commission's (PUC) intervenor compensation practices. PA sought judicial relief when the PUC slashed its request for nearly $500,000 in attorneys' fees to $130,000, just one-quarter of what it had expended during the five years it represented consumers' interests in a proceeding involving 900 and 976 telephone services. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 36 for background information.) PA and the other public interest law firms which supported PA's petition will now seek redress through legislative amendment of the Public Utilities Code. PA supports AB 1975 (Moore), which—as amended May 23—would require the PUC to award intervenor compensation attorneys' fees at market rates; prohibit it from diminishing an award for failure to prevail on all parts or subparts of an issue, so long as the intervenor has made a substantial contribution to the proceeding as a whole; specify that a finding of financial hardship lasts for two years, thus relieving intervenors of having to file repetitive petitions for eligibility; and restrict the PUC's ability to reduce an award because the intervenor's contribution to a proceeding supplements, complements, or contributes to the presentation of the Commission's Division of Ratepayer Advocates. AB 1975 has passed the Assembly and is pending in the Senate Committee on Energy and Public Utilities.

On March 13, Public Advocates was awarded $26,781 in intervenor compensation for its contribution to the PUC's decision which determined shortcomings in GTE's women/minority business enterprise (WMBE) program and the company's bilingual services from 1986 to 1988. The WMBE program is designed to promote the use of women- and minority-owned business enterprises by public utilities. The Commission found that GTE's WMBE program fell short of achieving the goal, based on evidence presented by PA in GTE's general rate case. PA's analysis of GTE's bilingual services deficiencies persuaded the company to enhance its services.

As legal counsel for the Greenlining Coalition (see CRLR Vol. 11, No. 2 (Spring 1991) pp. 36-37 for information on the Coalition), Public Advocates supported SB 941 (Johnston), which would require a no-frills, no-fault auto insurance policy to be offered in California. The bill was strongly backed by Governor Wilson and Consumers Union, but opposed by Voter Revolt, Assembly Speaker Willie Brown, Jr., and the California Trial Lawyers Association. On May 28, SB 941 was rejected by one vote in the Senate Judiciary Committee. (*See supra* report on CONSUMERS UNION and ACCESS TO JUSTICE FOUNDATION for related discussion.)

On April 11, the Greenlining Coalition praised Bank of America (B of A) for its ten-year Community Reinvestment Act (CRA) commitment. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 37 for background information.) The bank's long-term commitment of about $5 billion makes B of A the national leader in the field, since that amount represents three-quarters of 1% of its California assets per year. If all banks and savings and loan companies followed B of A's example, $300 billion would be available for low-income housing and economic development over the next ten years. On February 12, the Coalition had filed a protest with the Federal Deposit Insurance Corporation against B of A's proposed acquisition of the Bank of New England. The Coalition complained of an absence of a long-term CRA commitment by B of A; however, the complaint was withdrawn after B of A announced its new CRA plan. The bank's resources for CRA will be allocated to: (1) low-income housing—$50 million annually; (2) mortgage financing—$400 million each year; (3) consumer credit—$8 million

per year; (4) government-guaranteed loans—$40 million annually; and (5) minority contracting—$58 million a year.

On March 16, the *New York Times* reported that Robert Allen, chair of AT&T, has reversed positions on the revised federal Civil Rights Act. He has gone from opposing last year's measure (which was vetoed by President Bush) to supporting a workable compromise version in 1991. Members of the Greenlining Coalition took credit for the change in position after the Coalition organized a national campaign that deluged Allen with thousands of letters and phone calls threatening a switch from AT&T to another long distance carrier. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 37 for background information.)

On May 30, Insurance Commissioner John Garamendi scheduled a June 18 formal conciliation hearing on PA's administrative petition charging Oakland-based Western Pioneer Insurance Company with race discrimination. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 37 for background information.) Garamendi also ordered an August 19 hearing on PA's claim that Western Pioneer engages in redlining.

As a member of the Health Access Coalition, PA supports SB 36 (Petris), a universal health care bill that would guarantee all California residents the right to medical treatment regardless of their ability to pay. At this writing, SB 36 is pending in the Senate Committee on Revenue and Taxation. Action on the bill is not expected until late August. (*See supra* report on CONSUMERS UNION for related discussion.)

PUBLIC INTEREST CLEARINGHOUSE

200 McAllister St.
San Francisco, CA 94102-4978
(415) 565-4695

The Public Interest Clearinghouse (PIC) is a resource and coordination center for public interest law and statewide legal services. PIC is partially sponsored by four northern California law schools: Hastings School of Law, University of Santa Clara School of Law, Golden Gate School of Law, and University of California at Davis School of Law. The Clearinghouse is also funded by the California Legal Services Trust Fund and a subgrant from the Legal Services Corporation.

Through the Legal Services Coordination Project, PIC serves as a general resource center for all legal services programs in California and other states in the Pacific region. Services include information on funding sources and regulations, administrative materials, and coordination of training programs.

PIC's Public Interest Users Group (PUG) addresses the needs of computer users in the public interest legal community. Members include legal services programs in the western region of the United States, State Bar Trust Fund recipients, and other professionals in various stages of computerization. PUG coordinates training events and user group meetings, and serves as a clearinghouse for information shared by public interest attorneys.

PIC's biweekly *Public Interest Employment Report* lists positions for a variety of national, state, and local public interest organizations, including openings for attorneys, administrators, paralegals, and fundraisers. There is no charge for listing jobs in the employment report. A job resource library at PIC's office is available to employment report subscribers and to the general public.

PIC's public interest law program at the four sponsoring law schools helps prepare students to be effective advocates for the poor and other disadvantaged members of society. A project known as "PALS"—the Public Interest Attorney-Law Student Liaison Program—matches interested law students with practitioners in the field for informal discussions about the practice of law.

PIC's Academic Project promotes and facilitates the interaction of law school faculty and legal services attorneys in furtherance of law in the public interest. Faculty members assist practicing attorneys with legal services cases, and staff attorneys help faculty with research and course materials.

PIC publishes the *Directory of Bay Area Public Interest Organizations*, which lists over 600 groups and information on their services and fees. PIC also publishes *Public Interest, Private Practice*, which lists over 250 for-profit law firms which devote a substantial portion of their legal work to the public interest.

PIC publishes the *Public Interest Advocate*, a newsletter of its public interest law program. The newsletter prints information on part-time and summer positions available to law students. It is published August through April for law students in northern California. Listings are free and must be received by the tenth of the month.

MAJOR PROJECTS:

The April issue of PIC's *Public Interest Advocate* newsletter reported on the "Street Law Project" offered through Golden Gate University, Hastings, and the University of San Francisco School of Law. Street Law is a clinical course which allows law students to teach high school students about basic legal issues and rights; course material covered usually includes family, constitutional, criminal, and consumer law. Law students participating in this project are supervised by certified high school teachers; law students are required to teach classes three times per week and attend a weekly seminar for the project at UC San Francisco.

Another component of the Street Law Project is the court program, in which law students interact with convicted youth offenders who must complete the court program as a condition of probation; the focus of this program is to instill a sense of responsibility and civic duty in the youths assigned to the program.

The May/June edition of PIC's *Legal Services Bulletin* announced that Women in Legal Services' (WILS) Second Annual Conference is scheduled for October or November in southern California; the two-day conference will feature workshops and roundtables coordinated by WILS' working committees on subjects such as program priorities, support staff concerns, women as managers, work accommodations for the family, and women of color. Those interested in the conference may contact Ajabu Cato at Legal Aid of San Diego (619-262-5557).

The *Bulletin* also reported that the *Recorder*, a San Francisco legal newspaper, has begun a weekly section designed to help link public interest organizations with private attorneys who are interested in doing pro bono work. The section, entitled "Pro Bono Opportunities," is published every Monday and highlights approximately six public interest organizations in the Bay area. PIC encourages public interest groups in other regions to request their local legal newspaper to offer a similar section.

With a grant from the Public Utilities Commission's Telecommunications Education Trust (TET), PIC has established a project to assist legal services offices in California learn how they may serve their clients more effectively and efficiently through the use of telecommunications. In the first phase of the project, PIC conducted a survey of state legal services offices to assess current telecommunications usage and to discover the barriers to usage in legal services. Results showed that about 60% of the responding offices subscribe to at least one telecom service; however, few offices use the telecom services exten sively. According to the legal services offices, lack of technical expertise is the main reason telecommunications services are underutilized.

This issue will be addressed in the next phase of the project. PIC is compiling a guide for legal services groups which will provide a framework for managing and using telecommunications in legal services offices. Once completed, the guide will be mailed to every legal service organization in California.

In addition, PIC will offer training sessions during July and August. The workshops will include an overview of telecom options and strategies, and a hands-on session introducing participants to various computer bulletin boards and computer support services. PIC will also include training on how to use Legal Aid/Net, the legal services communications network. Sixty-five legal services offices have been targeted for the first round of training to help the offices take full advantage of the powerful telecom services resource.

According to PIC, within the next two years, most California courts will have electronic bulletin boards offering filing deadlines, opinions, local rule changes, scheduling changes, and other critical notices. The computer bulletin boards are expected to be critical time-savers as well as information resources for legal services programs, particularly as courts switch to "fast-track" systems to alleviate court congestion. The Ninth Circuit Court of Appeals already has such an electronic system in operation, known as Appeals Court Electronic Services (ACES). Information on Ninth Circuit cases is available as a public service provided by the court in conjunction with the Federal Judicial Center, the research and development segment of the federal court system.

Two bills sponsored by the State Bar's Legal Services section are proceeding through the legislature. SB 396 (Petris), as amended May 1, would require judgments in class actions to be amended to allocate undistributed monies paid in satisfaction thereof to the State Bar to provide additional funding for the provision of legal services; this bill passed the Senate on May 23 and is pending in the Assembly Judiciary Committee. AB 56 (Friedman), as amended May 7, would require increased funding for legal services through punitive damages awards; this bill passed the Assembly on May 30 and is pending in the Senate Judiciary Committee.

SIERRA CLUB
Legislative Office
1014 Ninth St., Suite 201
Sacramento, CA 95814
(916) 444-6906

The Sierra Club has 185,000 members in California and over 530,000 members nationally, and works actively on environmental and natural resource protection issues. The Club is directed by volunteer activists.

In California, Sierra Club has thirteen chapters, some with staffed offices. Sierra Club maintains a legislative office in Sacramento to lobby on numerous state issues, including toxics and pesticides, air and water quality, parks, forests, land use, energy, coastal protection, water development, and wildlife. In addition to lobbying the state legislature, the Club monitors the activities of several state agencies: the Air Resources Board, Coastal Commission, Department of Health Services, Parks Department, and Resources Agency. The Sacramento office publishes a newsletter, *Legislative Agenda*, approximately fifteen times per year. The Sierra Club Committee on Political Education (SCCOPE) is the Club's political action committee, which endorses candidates and organizes volunteer support in election campaigns.

The Sierra Club maintains national headquarters in San Francisco, and operates a legislative office in Washington, D.C., and regional offices in several cities including Oakland and Los Angeles.

MAJOR PROJECTS:

In the March 22 edition of *Legislative Agenda*, Sierra Club printed the 1990 California Legislators' Environmental Voting Record, which was compiled by the California League of Conservation Voters (CLCV); CLCV calculates legislators' scores based on their votes on the most significant and controversial environmental bills. CLCV reported that the partisan gap widened in the 1990 legislative session; Senate Democrats scored an average of 52 points better than Senate Republicans, and Assembly Democrats outscored their Republican counterparts by an average of 70 points. According to CLCV, the most crucial decisions are usually made at the committee level, where good bills are often killed by being sent into a "suspense" file without ever receiving a vote.

High scoring senators in the CLCV survey include Gary Hart (D-Santa Barbara, 100%), Alan Robbins (D-Van Nuys, 100%), Art Torres (D-Los Angeles, 100%), Dan McCorquodale (D-San Jose, 94%), David Roberti (D-Los Angeles, 94%), Herschel Rosenthal (D-Los Angeles, 93%), and Lucy Killea (D-San Diego, 93%). Senators with the lowest scores included John Doolittle (R-Roseville, 6%), Don Rogers (R-Bakersfield, 6%), Ed Royce (R-Fullerton, 7%), and Newton Russell (R-Glendale, 12%).

Assemblymembers receiving a 100% score from CLCV were: Rusty Areias (D-Salinas), Tom Bates (D-Oakland), John Burton (D-San Francisco), Bob Campbell (D-Richmond), Lloyd Connelly (D-Sacramento), Delaine Eastin (D-Fremont), Terry Friedman (D-Los Angeles), Tom Hayden (D-Santa Monica), Phil Isenberg (D-Sacramento), Richard Katz (D-Los Angeles), Lucille Roybal-Allard (D-Los Angeles), Byron Sher (D-Palo Alto), and John Vasconcellos (D-San Jose). Assemblymembers with the lowest CLCV scores were Ross Johnson (R-La Habra, 0%), Trice Harvey (R-Bakersfield, 5%), Marian La Follette (R-Northridge, 5%), Tom McClintock (R-Camarillo, 5%), and Bill Jones (R-Fresno, 6%).

On March 25, the Timber Association of California rejected a proposal negotiated by Sierra Club and Sierra Pacific Industries, California's largest private timberland owner. The agreement would have protected some environmentally sensitive forests and permitted loggers to harvest only as much timber as grows each year. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 38 for background information.) However, four legislators have introduced bills which would ensure that the Sierra Club/Sierra Pacific Industries agreement is enacted into law:

-SB 854 (Keene), as amended April 15, would require long-term timber management plans for all ownerships over 2,500 acres; after ten years, annual cutting would be limited to no greater than 2.2% of harvestable timber. SB 854 is pending in the Senate Natural Resources Committee.

-AB 641 (Hauser), as amended May 20, would require timber harvesting plans to include mitigation measures recommended by the Department of Fish and Game which are designed to protect fish and wildlife resources, and establish specified wildlife habitat requirements for the long-term timber management plans required by SB 854 (Keene). This bill is pending in the Senate Natural Resources Committee.

-AB 714 (Sher), as amended April 29, would prohibit clearcuts and similar harvests in ancient forests. For other than ancient forests, this bill would limit clearcuts to 20 acres and require buffer zones between clearcuts to be at least as large as the clearcut itself; prohibit clearcuts within 300 feet of county or state roads, or within 200 feet of non-timber production area; and halt clearcutting in adjacent areas until new trees on the clearcut site are six inches in diameter, or until 20 years have passed since the last clearcut. This bill is pending on the Assembly floor.

-SB 300 (McCorquodale), as amended May 20, would protect streams and

rivers in harvest areas by limiting harvesting; increase citizen input by lengthening to 60 days the timber harvest review period on environmentally sensitive or controversial plans; and reformulate the composition of the Board of Forestry to better reflect the general public's interests in protecting forests. The new board would be made up of one local government representative, two industry representatives, three public representatives, and three conservation group representatives. Board members could not have a financial interest in timberlands or the forest products industry. This bill is pending on the Senate floor. Sierra Club urges its members and the general public to send letters of support for this package of bills to their state representatives.

The Club's May 17 *Legislative Agenda* praised Governor Wilson for his "Resourceful California" proposal, a set of pilot projects, policy positions, and funding plans on resources issues. A main element of the proposal is a $628 million bond measure that would be submitted to the legislature and require voter approval in June 1992. Allocations from the bond measure's funds would include $300 million for the acquisition of the Headwaters Forest and other old-growth forestlands; $38 million for acquisition of new parklands; $87 million for improvements in parks; $138 million for restoration, acquisition, and public access projects in the Coastal, Tahoe, and Santa Monica Mountains Conservancies; $15 million for riparian habitat; $40 million for acquisition and restoration of wetlands habitat; and $10 million for the acquisition and restoration of threatened and endangered species habitat.

Sierra Club supports a three-bill package by Senator Nick Petris (D-Oakland) which seeks to address data gaps associated with registering pesticides, protect school children from toxic exposures, and eliminate 27 commonly used dangerous agricultural chemicals. SB 550, pending in the Assembly Health Committee, would require the California Department of Food and Agriculture (CDFA) to complete the identification of health problems associated with pesticides; CDFA was required to complete this project by December 1985, but to date has completed only about 20% of the task.

To protect school children from pesticide exposure, SB 926 would require the CDFA Director to cancel the registration of school use pesticides containing ingredients known to cause cancer or reproductive harm. SB 926 is pending in the Assembly Environmental Safety Committee. Finally, SB 520 would offer new and strengthened protections for farmworkers by prohibiting the dispersal, by aircraft or spraying, of 27 extremely toxic pesticides. This bill is pending in the Assembly Labor and Employment Committee.

The May 8 edition of *Legislative Agenda* reported that most Sierra Club-supported bills have been successfully passed out of various policy committees. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 38-39 for background information.) One exception is SB 1143 (Killea), which would require manufacturers to label hazardous household products so as to encourage consumers not to throw the product in the trash or down the drain; this bill was rejected 5-4 by the Senate Governmental Organization Committee on April 30. However, SB 1143 was granted reconsideration; a new hearing date has not been set.

The Sierra Club also supports SB 711 (Lockyer), which would prohibit court records from being sealed if they contain information about defective products or environmental hazards, and SB 260 (Hart), which would allow courts to impose probation conditions on corporations which habitually violate the law.

On May 24, the Sierra Club announced its opposition to SB 1062 (Maddy), which would amend the 1976 California Coastal Act to allow the Walt Disney Company to build a $3 billion seaside theme park-resort by filling in part of Long Beach Harbor. (*See infra* agency report on CALIFORNIA COASTAL COMMISSION; *see also* CRLR Vol. 11, No. 1 (Winter 1991) p. 124 for background information.) The bill would amend the Coastal Act to exempt Disney from current prohibitions on the filling and dredging of open coastal waters. SB 1062, which is also opposed by the Coastal Commission and the League for Coastal Protection, among others, is pending in the Senate Natural Resources and Wildlife Committee.

On May 29, a fire destroyed the Sierra Club's state headquarters in Sacramento, resulting in damages estimated at approximately $200,000. Sierra Club has established a temporary office in the same area of Sacramento.

TURN (TOWARD UTILITY RATE NORMALIZATION)

625 Polk St., Suite 403
San Francisco, CA 94102
(415) 929-8876

Toward Utility Rate Normalization (TURN) is a nonprofit advocacy group with approximately 50,000 members throughout California. About one-third of its membership resides in southern California. TURN represents its members, comprised of residential and small business consumers, in electrical, natural gas, and telephone utility rate proceedings before the Public Utilities Commission (PUC), the courts, and federal regulatory and administrative agencies. The group's staff also provides technical advice to individual legislators and legislative committees, occasionally taking positions on legislation. TURN has intervened in about 200 proceedings since its founding in 1973.

MAJOR PROJECTS:

In its summer newsletter, TURN reported on the progress of its complaint pending with the PUC which alleges that Pacific Bell improperly assessed late payment charges and reconnect fees in a statewide billing scandal which has affected thousands of customers. PacBell has admitted that it wrongfully charged up to $3.5 million in late payment penalties last year to customers who had actually paid their bills on time, and has been ordered by the PUC to pay for correction of the billing problem from shareholders' profits. However, TURN is requesting that the PUC conduct a full investigation of the billing scandal and impose a $50 million penalty against PacBell. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 39-40 and 175 for background information.)

On April 10, PacBell asked the PUC to dismiss TURN's complaint, arguing that "[i]t is unnecessary to punish Pacific Bell when it had no intent to seek improper financial gain, has acknowledged its mistakes, and has taken extensive steps to correct its errors...." However, TURN attorney Tom Long alleges that PacBell managers have known about the billing problem for years, but failed to correct it because it was not cost-effective to do so. A prehearing conference to schedule PUC hearings on TURN's complaint was set for July 19.

TURN's summer newsletter also reported that the PUC recently denied AT&T of California's request to raise its rates for intrastate long distance directory assistance calls from forty cents to fifty cents per call. (*See infra* agency report on the PUC; *see also* CRLR Vol. 11, No. 1 (Winter 1991) p. 35 for background information.) Although the PUC stated that AT&T had failed to make its case for an increase, the Commission also noted that it generally agrees with the overwhelming consumer opposition to the increase, which included TURN's formal objection. Among other things, TURN argued that AT&T does not

provide consumers with a long distance telephone book, so the public has no alternative to paying directory assistance to get an out-of-town number.

Along with the Utility Consumers' Action Network (UCAN) and numerous other public interest organizations, TURN celebrated the PUC's May 8 unanimous rejection of Southern California Edison's (SCE) proposed takeover of San Diego Gas & Electric Company. The PUC found that the merger is not in the public interest, and that it would expand Edison's opportunity to purchase power from its unregulated affiliate, Mission Energy, which would boost its own profits while raising rates for its customers. TURN had actively opposed the merger, in part by conducting a grassroots campaign to educate southern Californians about the long-term dangers of the merger. (*See infra* report on UCAN for related discussion.)

TURN is participating in SCE's General Rate Case now pending before the PUC, and is trying to convince the Commission to reduce the company's $154 million rate hike request; TURN notes that this request follows a 9.3% rate hike which SCE implemented in early 1991. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 34 for background information.) TURN contends that SCE is attempting to charge ratepayers unfair and excessive costs, in part "to pay for...the company's costly side-ventures." SCE's General Rate Case is expected to be decided by the PUC sometime in December 1991, following hearings and the submission of a proposed decision by an administrative law judge.

In a May 26 commentary published in the *San Diego Union*, TURN Executive Director Audrie Krause analyzed "Caller ID," a proposed telephone feature promoted by PacBell, General Telephone, and Continental Telephone. The service would cost approximately $6.50 per month, plus a one-time charge of about $50 for a small screen which displays the phone numbers of incoming callers. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 40 and 175 and Vol. 11, No. 1 (Winter 1991) pp. 36 and 145-46 for background information on Caller ID.) Krause noted that although the service is being promoted by the telephone companies as a solution to obscene or harassing telephone calls, it is not likely to help the victims of such calls, since callers will have the option to block display of their numbers. Further, Krause opined that Caller ID threatens constitutionally protected privacy rights which telephone customers have historically enjoyed.

In the commentary, Krause stated that PUC staff estimates that 60% of the people who participated in six public hearings conducted by the PUC opposed the new Caller ID service. The single biggest concern of those who testified against Caller ID was their ability to keep their telephone number private. According to Krause, "Privacy concerns must be addressed by allowing customers the option of blocking display of their phone numbers on a per-line basis. The phone companies would prefer that blocking be available only on a per-call basis, which requires the caller to dial three or four extra digits before each call."

TURN, UCAN, and Consumer Action are advocating that free per-line blocking must be available to customers if Caller ID is approved by the PUC. TURN also supports a proposed service known as "Call Trace," which offers the most potential to assist victims of phone harassment. According to Krause, "Call Trace allows the customer to make a permanent record of the caller's phone number in the phone company's computer. Although the customer will not receive the information, it will be available to law enforcement agencies if the customer files a complaint. This service should be available to victims of phone harassment free or at a minimal cost, rather than the $10 per trace that PacBell has proposed."

After months of study, the PUC's Division of Ratepayer Advocates (DRA) announced its findings and recommendations on Caller ID on June 4. According to DRA, consumers should be allowed to decide whether their phone numbers are displayed to the parties they call, and should have the option to choose per-line blocking. DRA further stated that customers should have the right to unblock and allow display of their number if they so choose. The PUC is expected to decide this fall whether to allow Caller ID and the other proposed services, and whether to order the accompanying operating rules urged by TURN and other consumer organizations.

In the May issue of its *Inside Line* newsletter, TURN discussed SB 841 (Rosenthal), which would make residential landlords responsible for installing a telephone jack and placing and maintaining telephone inside wiring. At present, California law does not specifically address the respective responsibilities of residential landlords and tenants regarding installation and maintenance of telephone wiring. SB 841 would also require telephone corporations to annually provide residential subscribers with prescribed information, including an explanation of tenant and lessor responsi- bilities; an explanation about the procedures and charges for determining whether a problem is in the inside wiring or the telephone network; and a description of any services provided by the utility with respect to inside wiring and whether those services are also offered by non-utility providers. TURN supports SB 841, which was passed by the Senate on May 16 and is pending in the Assembly Utilities and Commerce Committee. (*See supra* report on CENTER FOR PUBLIC INTEREST LAW for related discussion.)

TURN also supports several other bills currently pending in the legislature, including the following:

-SB 1041 (Roberti), as amended May 6, would generally revise provisions relating to the judicial review of decisions and findings of the PUC, and would authorize judicial review of Commission decisions to take place in either the California Supreme Court or a court of appeal. This bill is pending in the Senate Appropriations Committee.

-SB 232 (Rosenthal), as amended April 18, and AB 341 (Moore), as amended May 23, would direct the PUC to require any call identification service to allow a residential caller, at no charge, to withhold, either on an individual basis or a per-line basis, at the customer's option, the display of the caller's telephone number from the individual receiving the call. SB 232 is pending on the Senate floor; AB 314 is pending in the Assembly Ways and Means Committee.

UCAN (UTILITY CONSUMERS' ACTION NETWORK)

4901 Morena Blvd., Suite 128
San Diego, CA 92117
(619) 270-7880

Utility Consumers' Action Network (UCAN) is a nonprofit advocacy group supported by 52,000 San Diego Gas and Electric Company (SDG&E) residential and small business ratepayers. UCAN focuses upon intervention before the California Public Utilities Commission (PUC) on issues which directly impact San Diego ratepayers. UCAN also assists individual ratepayers with complaints against SDG&E and offers its informational resources to San Diegans.

UCAN was founded in 1983 after receiving permission from the PUC to place inserts in SDG&E billing packets. These inserts permitted UCAN to attract a large membership within one year. The insert privilege has been suspended as a

result of a United States Supreme Court decision limiting the content of such inserts.

UCAN began its advocacy in 1984. Since then, it has intervened in SDG&E's 1985 and 1988 General Rate Cases; 1984, 1985, 1986, and 1989 Energy Cost Adjustment Clause proceedings; the San Onofre cost overrun hearings; and SDG&E's holding company application. In 1989, UCAN participated in two rate adjustment proceedings in which SDG&E was granted increases for energy costs, rate of return, and inflation. Since 1988, UCAN has devoted much of its time and effort to challenging the proposed takeover of SDG&E by Southern California Edison Company (SCE).

MAJOR PROJECTS:

On May 8, UCAN celebrated the greatest victory in its eight-year history after the PUC unanimously rejected the proposed takeover of SDG&E by SCE. Following almost three years of hearings, briefings, and debate, the PUC found that the proposed merger did not meet the legislative criteria for approval and, therefore, was not in the public interest. Edison and SDG&E spent more than $100 million promoting the merger, which would have created the largest utility company in the country. However, the combined efforts of UCAN, the San Diego Coalition for Local Control, San Diego Mayor Maureen O'Connor, and numerous other groups were successful in convincing the PUC that the merger should not be approved.

Major credit for the defeat of the merger goes to Senator Herschel Rosenthal, whose SB 52 (Chapter 484, Statutes of 1989) added section 854 to the Public Utilities Code. The statute, which explicitly states that a proposed merger must be rejected if it "adversely affect[s] competition," and further requires an express PUC finding that "on balance,...the acquisition or control proposal is in the public interest," was the turning point in the PUC's decision. Specifically, the PUC rejected the proposed merger on three independent bases:

-Edison and SDG&E failed to prove that the merger would provide net benefits to ratepayers in the long term—that is, at least several years beyond 2000. In addition, the utilities did not present a ratemaking proposal which would assure that ratepayers would receive the forecasted long-term benefits of the merger as required by section 854(b)(1);

-the merger would have adverse effects on competition among utilities which transmit power and sell their excess energy. Those effects could not be mitigated as required by section 854(b)(2); and

-after consideration of the seven criteria listed in section 854(c) and of their proposed mitigation, in conjunction with the section 854(b)(1) and (b)(2) findings, on balance, the merger would not be in the public interest. (*See infra* agency report on the PUC for related discussion.)

Following the PUC's announcement of its decision, UCAN Executive Director Michael Shames stated that "the words of UCAN did not go unheeded," noting that each of the arguments raised in UCAN's briefs were cited by the commissioners as bases for rejecting the merger. Shames further stated that he did not believe that the utilities would appeal the decision; his prediction proved to be correct when Edison announced on May 16 that the two utilities' boards of directors had terminated the merger agreement and withdrawn their applications from state and federal regulatory agencies.

On May 9, UCAN and other merger opponents expressed willingness to work with SDG&E executives who had supported the merger, if the utility agrees to certain proposals, including the following:

-creation of a blue-ribbon utility oversight committee that would be appointed by the San Diego City Council and the San Diego County Board of Supervisors; and

-the appointment of two new SDG&E board members to replace O. Morris Sievert and Charles (Red) Scott, who voted against the merger in 1988 prior to resigning from the Board to protest the merger.